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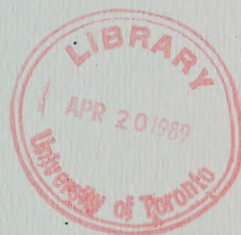


ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 90

DATE: Wednesday, April 12th, 1989

BEFORE:
M.I. JEFFERY, Q.C., Chairman
E. MARTEL, Member
A. KOVEN, Member



FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER of an Order-in-Council
(O.C. 2449/87) authorizing the
Environmental Assessment Board to
administer a funding program, in
connection with the environmental
assessment hearing with respect to the
Timber Management Class
Environmental Assessment, and to
distribute funds to qualified
participants.

Hearing held at the Ramada Prince Arthur
Hotel, 17 North Cumberland St., Thunder
Bay, Ontario, on Wednesday, April 12th,
1989, commencing at 9:00 a.m.

VOLUME 90

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member

A P P E A R A N C E S

MR. V. FREIDIN, Q.C.)	MINISTRY OF NATURAL
MS. C. BLASTORAH)	RESOURCES
MS. K. MURPHY)	
MS. Y. HERSCHER)	
MR. B. CAMPBELL)	MINISTRY OF ENVIRONMENT
MS. J. SEABORN)	
MR. R. TUER, Q.C.)	ONTARIO FOREST INDUSTRY
MR. R. COSMAN)	ASSOCIATION and ONTARIO
MS. E. CRONK)	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY)	ASSOCIATION
MR. J. WILLIAMS, Q.C.)	ONTARIO FEDERATION OF
MR. B.R. ARMSTRONG	ANGLERS & HUNTERS
MR. G.L. FIRMAN	
MR. D. HUNTER	NISHNAWBE-ASKI NATION and WINDIGO TRIBAL COUNCIL
MR. J.F. CASTRILLI)	
MS. M. SWENARCHUK)	FORESTS FOR TOMORROW
MR. R. LINDGREN)	
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MR. R. EDWARDS)	NORTHERN ONTARIO TOURIST
MR. B. MCKERCHER)	OUTFITTERS ASSOCIATION
MR. L. GREENSPOON)	NORTHWATCH
MS. B. LLOYD)	

APPEARANCES: (Cont'd)

MR. J.W. ERICKSON, Q.C.)	RED LAKE-EAR FALLS JOINT
MR. B. BABCOCK)	MUNICIPAL COMMITTEE
MR. D. SCOTT)	NORTHWESTERN ONTARIO
MR. J.S. TAYLOR)	ASSOCIATED CHAMBERS OF COMMERCE
MR. J.W. HARBELL)	GREAT LAKES FOREST
MR. S.M. MAKUCH)	
MR. J. EBBS	ONTARIO PROFESSIONAL FORESTERS ASSOCIATION
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MR. D. COLBORNE	GRAND COUNCIL TREATY #3
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MR. G.J. KINLIN	DEPARTMENT OF JUSTICE
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MR. M. COATES	ONTARIO FORESTRY ASSOCIATION
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MR. R.L. AXFORD	CANADIAN ASSOCIATION OF SINGLE INDUSTRY TOWNS
MR. M.O. EDWARDS	FORT FRANCES CHAMBER OF COMMERCE
MR. P.D. McCUTCHEON	GEORGE NIXON

APPEARANCES: (Cont'd)

MR. C. BRUNETTA

NORTHWESTERN ONTARIO
TOURISM ASSOCIATION

I N D E X O F P R O C E E D I N G S

<u>Witness:</u>	<u>Page No.</u>
<u>DAVID LOWELL EULER,</u> <u>PETER PHILLIP HYNARD,</u> <u>JOHN TRUMAN ALLIN,</u> <u>RICHARD BRUCE GREENWOOD,</u> <u>CAMERON D. CLARK,</u> <u>GORDON C. OLDFORD,</u> Resumed	15030
Cross-Examination by Mr. Hanna	15030

(v)

I N D E X O F E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
512	Two-page document of paragraphs relating to timber management objectives and also Table 4.11.2 for the Red Lake Crown Management Unit.	15141

1 ----Upon commencing at 9:05 a.m.

2 THE CHAIRMAN: Thank you. Please be
3 seated.

4 MR. MANDELKER: Mr. Chairman, I would
5 just like to advise the Board, I have spoken with Ms.
6 Swenarchuk and she has no objection to Mr. Freidin
7 preparing his witnesses.

8 THE CHAIRMAN: Thank you.

9 Are there any preliminary matters to deal
10 with before we start in?

11 (no response)

12 Very well. Mr. Hanna?

13 MR. HANNA: Mr. Chairman, good morning.
14 It's a pleasure to be here today and have this
15 opportunity --

16 THE CHAIRMAN: I think perhaps you should
17 try and use the microphone because there are people at
18 the back.

19 MR. HANNA: Sorry, I wasn't trying to
20 avoid it, I was trying to -- sort of, not trying to eat
21 it.

22 There. Is that better, sir?

23 THE CHAIRMAN: I think so, yes.

24 MR. HANNA: It's a pleasure to be here
25 today and have this opportunity to serve on behalf of

1 the Ontario Federation of Anglers & Hunters.

2 I have been asked to come before this
3 Board on their behalf and to ask questions for them.
4 In doing so, I would like to make it very clear to the
5 Board and other representatives of parties at this
6 hearing that I in no way can be referred to as legal
7 counsel.

8 I have no training in law, however, it is
9 my understanding that these hearings are for the public
10 and I come here, I believe as an informed member of the
11 public. I have knowledge of the proceedings and the
12 central issues before this Board.

13 Before I start I would like to break the
14 tradition, perhaps an unfortunate tradition, that the
15 Federation established over the last few panels, and
16 I'm like to ask the Board's indulgence.

17 I have followed these proceedings for
18 almost a decade, or the proceedings leading up to these
19 proceedings, and I have been involved in a number of
20 forums dealing with this particular issue. So I hope
21 that will help me to avoid having to ask you to let me
22 get up to speak.

23 I have also read very carefully the
24 transcripts and the witness panels that have been
25 prepared and I think I have some knowledge of the

1 background to this case.

2 In saying this though, I would like to
3 make it clear that I am not at all strong in procedural
4 matters and I would ask, that if I should violate some
5 of the rules of the proceedings, that in that case I
6 might have your indulgence, and I will certainly look
7 to any directions that you give me that in respect.

8 With respect to cross-examining this
9 panel, I would like to indicate the exhibits I will be
10 referring to. Specifically I'll be referring to the
11 following exhibits: Exhibit No. 4, the Proposed Class
12 Environmental Assessment, Exhibit No. 16, the
13 Baskerville Audit Report, Exhibit No., I believe it's
14 416 -- the panel statement, or the witness statement
15 for this panel, Exhibit 308 which is the Fish Habitat
16 Protection Guidelines, Exhibit 310 which is the Moose
17 Habitat Protection Guidelines for the Moose Habitat
18 310, Exhibit 318 which is the ESSA Effects Monitoring,
19 Report, Exhibit --

20 MR. FREIDIN: 381.

21 MR. HANNA: Oh, I'm sorry. Thank you
22 very much. Mr. Freidin. Exhibit 381, and Exhibit 382
23 which is the Silvicultural Guide for Spruce.

24 In addition to those exhibits, Mr.
25 Chairman, I will be introducing a number of exhibits

1 into evidence but we will come to those in due course.

2 So if I may, Mr. Chairman, I would like
3 to begin my cross-examination with Mr. Hynard.

4 THE CHAIRMAN: Very well.

5 DAVID LOWELL EULER,
6 PETER PHILLIP HYNARD,
7 JOHN TRUMAN ALLIN,
8 RICHARD BRUCE GREENWOOD,
9 CAMERON D. CLARK,
10 GORDON C. OLDFORD, Resumed

11 CROSS-EXAMINATION BY MR. HANNA:

12 Q. Good morning, Mr. Hynard.

13 MR. HYNARD: A. Good morning, Mr. Hanna.

14 Q. Mr. Hynard, is this your first
15 experience as an expert witness before a tribunal of
16 this nature?

17 A. Yes, it is.

18 Q. It is my first experience being on
19 this side of the lecturn and I hope we both survive our
20 baptism by fire.

21 If I look nervous up here it is because I
22 find it much more difficult to stand on this side than
23 on that side, so perhaps if you see me being nervous it
24 will make you feel less nervous.

25 Mr. Hynard, on page 27 of your witness
statement it says: "Mr. Hynard remains a unit forester
by choice."

1 Right at the top of the page.

2 A. Yes, I have that.

3 Q. Would you please explain to me what
4 is meant by this statement?

5 THE CHAIRMAN: Did you write that, by the
6 way?

7 MR. HYNARD: Yes. That's a very
8 difficult question.

9 MR. HANNA: Q. I tried to start with an
10 easy question.

11 MR. HYNARD: A. I'm a unit forester, I
12 have been a unit forester and held the same position
13 for almost 16 years in the same location, and that's a
14 little unusual in the Ministry.

15 I have had opportunities to advance and I
16 have remained on that unit by my own choice and I have
17 remained there because I like my work, I like forestry,
18 I like the unit. It doesn't have to be Minden, I just
19 ended up there and I enjoy that continuity of practice
20 on a piece of land.

21 That's what is meant by that, by choice.

22 Q. So if I can say that you have had
23 opportunities to advance, but because you find a lot
24 the reward in the local challenges and the experience
25 of being there, you decided, this is my place and this

1 is where I can be most, let's say, useful to your
2 employer and yourself?

3 A. Well, that's where I find it the most
4 rewarding -- I find it both challenging and rewarding.
5 It's as challenging as any job that I've seen around me
6 and it's as rewarding, although perhaps not in a
7 monetary sense.

8 THE CHAIRMAN: Is that a plug for a
9 raise?

10 MR. HYNARD: I always try my best.

11 MR. HANNA: Q. Mr. Hynard, you can take
12 this consolation, most expert witnesses charge double
13 time at hearings.

14 I say this in all sincerity, it is a
15 pleasure to have a witness available to epitomize the
16 high level of local knowledge and experience suggested
17 as being so important and close to the timber
18 management planning process, and I say it with full
19 sincerity. I think it is a pleasure to be able to have
20 someone of your capabilities here.

21 I want to know if you have read the
22 Baskerville Audit Report which is Exhibit 16 at these
23 hearings?

24 A. Yes, I have. I read it very
25 carefully when it first came out which is about a

1 little over two years ago now. I haven't studied it
2 closely since then, but I am sure I remember most of
3 it.

4 THE CHAIRMAN: Mr. Hanna, just before we
5 embark on this line of questioning, you are aware of
6 the Board's rulings with respect to the calling of Dr.
7 Baskerville and the fact that the Board has retained
8 its own counsel and will be calling Dean Baskerville as
9 its own witness at the conclusion of the proponent's
10 case?

11 MR. HANNA: I am quite familiar with
12 that, Mr. Chairman. Perhaps now that we have raised
13 that issue, as I say, I don't know much about
14 procedural matters, and perhaps I can ask for some
15 direction on procedural matters it, just really dealing
16 with this witness and questions.

17 THE CHAIRMAN: Well, we have no
18 objections to questions about what this witness thinks
19 of the Baskerville Report or statements made in the
20 Baskerville Report. You are entitled to examine this
21 witness on his understanding of those issues.

22 What I think we want to refrain from
23 getting into is any questions relating to what this
24 witness thinks Dean Baskerville meant. We will have
25 Dean Baskerville before us later and he can tell us

1 exactly what he meant at that time.

2 MR. HANNA: Thank you, Mr. Chairman. I
3 can assure you that I will try and follow that clearly.

4 In terms of procedural matters, it is
5 really a more general question. There are a number of
6 things that I was going to ask your direction on.

7 My strategy on that was, I was going to
8 wait until everybody was sort of burned out and ready
9 for a break and then raise them at that time, but I
10 don't want to start now and on these sort of questions,
11 but there are a few things that I would like to get
12 some direction on, and that was -- how I was planning
13 to deal with Dean Baskerville was one of the things I
14 was looking for the Board's direction on.

15 I just want to make sure you understand
16 where I am coming from concerning my dealing with those
17 things.

18 THE CHAIRMAN: Well, if you need
19 assistance at any time let us know and we will be
20 pleased to assist. If we see something that we feel
21 you need assistance on, we will interrupt and give you
22 that assistance.

23 MR. HANNA: I'll look forward to it.

24 Q. All right. We were talking about
25 Dean Baskerville Report, Mr. Hynard. What I would like

1 to know -- so, is it fair to to say that you are
2 familiar with it and you have a good knowledge of what
3 that report contained?

4 MR. HYNARD: A. Well, as Minden was one
5 of the six units that Dean Baskerville audited in that
6 report and I read it very, very carefully at that time
7 and I have some -- and I have some recollection of that
8 reading, yes.

9 Q. At this time I just really want to
10 ask you two questions with respect to it. The first
11 thing is: Were there any sections in the report that
12 you had major disagreements with?

13 A. Can I give you my overall reaction to
14 the Audit Report, first?

15 Q. Certainly.

16 A. I think that Dean Baskerville is a
17 great forester. He has a tremendous grasp and
18 understanding and knowledge of all the fundamentals of
19 forestry. He has a great mind, especially in
20 conceptual areas.

21 Also, he has a good sense of humour and a
22 spring in his step and a twinkle in his eye and he's a
23 very likeable man.

24 THE CHAIRMAN: Something's coming, Mr.
25 Hynard. We can sense it.

1 MR. HYNARD: When I first read his report
2 I was surprised, and the reason that I was surprised
3 was that I had read the Terms of Reference for his
4 Audit, and his report was different from what I
5 expected.

6 It contained some inaccuracies. In fact,
7 I think the Audit could be criticized in one sense as
8 going forward with Baskervillean concepts and looking
9 for Ontario's fitting within those Baskervillean
10 concepts. It also contained some inaccuracies with
11 regard to my own particular unit.

12 And, having said all that, I hardly
13 endorse his Audit. I felt overall that it contained
14 good material, that it contained good criticisms, good
15 constructive criticisms and useful.

16 I have never said anything against that
17 Audit, I never even pointed out that it contained a few
18 inaccuracies because in his introduction --

19 MR. HANNA: Q. What page are you
20 referring to there?

21 MR. HYNARD: A. Page 2. Right at the
22 top of the page, Mr. Hanna, it says:

23 . "If the Audit initiates a contemplative
24 review of the parts of the system
25 questioned, then it will be successful.

1 If it invokes a defensive response
2 within the MNR or a destructive response
3 amongst the detractors of the MNR, it
4 will have failed."

5 And I think that the Ministry took that
6 very, very positive approach; it did not try to defend
7 itself against any errors or inaccuracies or become
8 defensive about criticism. Instead it initiated an
9 action plan in a positive way.

10 And I certainly agree very, very much
11 with those two sentences at the top of page 2 that I
12 just read.

13 Q. All right. There are two things I
14 just want to make sure I understand. First of all,
15 with the matter of inaccuracies, would you say the
16 inaccuracies in the report are stemming from the
17 nature, in the sense that they would lead to what would
18 invalidate the conclusions?

19 A. No, no. I felt that were
20 inaccuracies with regard to generalized statements
21 including all six units that he audited, which I know
22 were not true, or not totally true of my own. However,
23 I don't believe that that invalidates the Audit at all.

24 Q. Thank you. I am sure before this
25 hearing is over we will hear a lot about the

1 Baskervillean concepts, I believe was the word you
2 used, and I don't know that that this is really the
3 time to go into, but I just, very briefly -- I don't
4 want to get into it in a lot of detail right now, but I
5 just want to make sure I have an understanding of what
6 you mean by Baskervillean concepts.

7 A. Well, we now know that Baskerville is
8 not a small town in New Brunswick. When I think of
9 Baskervillean concepts, I think of the setting of
10 objectives, the setting of realistic, attainable
11 objectives that can be quantified, measured and
12 progress towards the attainment of those objectives can
13 be charted. I think Dean Baskerville is very, very
14 strong on that point.

15 Secondly, that in resource management,
16 the concept of adaptive management, which is really a
17 part of that first concept, and that is that there be a
18 charting of progress along the way and that where
19 attainment is -- where results along that route are
20 showing that attainment is not possible, that
21 objectives are not realistic, or that the actions being
22 taken to attain those objectives are corrected as a
23 result of that feedback.

24 I think a third concept which I think
25 of - which I think of as Baskervillean - is within

1 integrated resource management and that is the
2 optimization approach in which all of the resource uses
3 are collectively regarded. It's a complicated concept
4 in which there is an effort to optimize the net benefit
5 of all of the resource features.

6 Q. Thank you. Is that --

7 A. Those are the three main ones that
8 spring to my mind right away.

9 Q. I just want to make sure -- as I
10 understood, there was two things that you felt were
11 sort of outside of the Terms of Reference or did not
12 expect or whatever. Was the Baskervillean was
13 something which was felt not what you expected as part
14 of the Audit?

15 A. Well, I had never been to Baskerville
16 before, so I wasn't aware --

17 Q. That's the person or town?

18 A. That's the town, that's to the whole
19 concept. So that was new to me and that wasn't a
20 surprise one way or the other.

21 I'd have to get the original Terms of
22 Reference that were given to Mr. Baskerville in
23 performing his Audit in order to properly explain to
24 you where I felt he had deviated from his Terms of
25 Reference.

1 Q. So -- but in fact if he deviated from
2 the Terms of Reference again, did you feel it was a
3 positive deviation or a negative deviation?

4 A. I think any time - and I am speaking
5 personally here - I think any time that I engage a
6 contractor or a professional or a consultant, anyone to
7 perform a task for me, and when the bill is presented
8 to me, I like to be -- I like to know that I am paying
9 for what I asked for.

10 You can fix the plumbing but it was a
11 problem with the furnace. In that sense -- and if
12 there is a problem with the plumbing that should be
13 fixed, then I would like that contractor to come back
14 to me and say: Look, I have checked the system out,
15 it's really the plumbing that I should be looking at.

16 Q. Or the furnace?

17 A. Whichever.

18 Q. I'm not sure whether we are talking
19 about the plumber or the furnace?

20 A. Let's say the furnace is okay and
21 it's the plumbing that is in need of repair and he
22 comes back and he tells me: It's your plumbing, I
23 should be working on the plumbing. And I'd say: Okay,
24 tell me the price we're looking at in fixing the
25 plumbing.

1 That's the kind of thing I would have
2 expected. And my impression at that time, 1986 when I
3 first saw that Audit, was that it was different from
4 the Terms of Reference, it was different from what I
5 expected in that sense.

6 Was it positive? I think your question
7 was: Was it positive or was it negative? And I
8 believe it was positive.

9 Q. Okay. I am still -- I wasn't
10 expecting this to be this extended, but you have raised
11 a number of interesting questions here.

12 See, what I am not clear about is what
13 was wrong with the furnace, seeing Dr. Baskerville
14 fixed the plumbing?

15 A. Yeah. I would have to get a copy of
16 the Terms of Reference that were given to Dean
17 Baskerville to conduct his Audit.

18 Q. Well, is the furnace working now?

19 A. Well, as far as I know the furnace is
20 working fine. I have been warm for the last several
21 years and it seems to be working fine.

22 Q. Fine. Perhaps we'll come back to
23 furnaces later. I want to just deal with one
24 specific --

25 A. I presume that Dean Baskerville found

1 the furnace in order to, or he would have been working
2 on it, I am sure.

3 Q. Perhaps we will get the Terms of
4 Reference and find out what actually a furnace consists
5 of at some point later.

6 Perhaps, I just wanted to get your view
7 on one particular point in Dr. Baskerville's Audit that
8 did relate to your experience and that's on page 78, if
9 you could turn to that page.

10 As you note there, the third paragraph
11 there on that page, he is talking about the link of
12 tenure of unit foresters, like yourself, and there is
13 one sentence there that I would like to get your view
14 on.

15 If you want I give you a moment to read
16 that to refresh your memory.

17 A. Which sentence, particularly?

18 Q. Okay. The sentence I'd like to get
19 your view on is this, it goes:

20 "This situation --" I'm sorry.

21 MR. FREIDIN: About seven lines down.

22 MR. HANNA: Q. "This situation is not
23 Conducive to the stability and
24 understanding of the local resource that
25 is essential to design an implementation

1 of good forest management."

2 Now, I would simply like to get your view
3 as to whether you agree or disagree with that
4 statement?

5 MR. HYNARD: A. That question arose
6 earlier in my testimony in evidence-in-chief I believe
7 and it was regarding my long tenure in Minden and its
8 advantages, and I don't think I mentioned the
9 disadvantages.

10 Q. If you wish it's on page 13094?

11 A. Do you have it there, Mr. Hanna?

12 Q. Yes, I do. (handed) Please ignore
13 all my marginal notes there, if you would.

14 THE CHAIRMAN: Don't look at them, Mr.
15 Hynard.

16 MR. HYNARD: The Chairman asked me how
17 long I had been on the unit and I replied 15 and a half
18 years, and the Chairman then asked:

19 "Is that unusual, to be on a unit so
20 long? "

21 And I replied that:

22 "I think so."

23 And my comments were essentially that:

24 "I was once a young green forester too
25 and I was fresh on that unit 15 and a

1 half years ago and my job I guess was
2 harder then to do. Experience does make
3 it easy, but I had access to experience
4 in other foresters in the district, at
5 the region. There are experienced people
6 in the technology development units. Our
7 central library at Maple and the Whitney
8 Block gives access to all the world's
9 forestry libraries and a full library
10 service. I must have been slow on the
11 job 15 and a half years ago, but I have
12 looked at my treatment areas and I have
13 few regrets. I don't think that every
14 forester has to be there 15 and a half
15 years to do a good job, in fact I am sure
16 he doesn't."

17 MR. HANNA: Q. I haven't heard an answer
18 yet to the question that I asked.

19 MR. HYNARD: A. The statement there is
20 that this situation - and it's referring to the length
21 of tenure of unit foresters - the previous sentence
22 states that:

23 "Unit foresters have an overage been on
24 their present unit for 4.6 years with 52
25 per cent of them serving in that capacity

1 two years or less, and 67 per cent five
2 years or less."

3 The statement is:

4 "This situation is not conducive to the
5 stability and understanding of the local
6 resource that is essential to design an
7 Implementation of good forest
8 management."

9 And your question is: Do I agree with that statement?

10 Q. Yes.

11 A. I guess in answering that I am going
12 to have to say that having experience in an area is
13 very, very valuable. It's valuable in many ways, in
14 understanding those forests and their history, and the
15 soils and the performance of those forests on those
16 soil types, to look at the past results on that
17 particular unit, to understand the people and the
18 issues on that unit. All of those things, experience
19 on that particular unit is useful.

20 The fact that foresters oftentimes have
21 less experience on a unit, therefore, means that they
22 don't have those advantages that a more experienced --
23 I should say, more experience on that unit.

24 However, I don't necessarily agree that
25 it's conducive, if I can find the sentence again, that

1 that situation would then be conducive towards
2 instability and a lack of understanding of the local
3 resource. There are other factors that allow for
4 stability and understanding, and those factors are all
5 of the records on soils and forests and treatment and
6 results, and the people -- the people that are there,
7 the technicians, the other staff members that are there
8 provide that continuity that would otherwise lead
9 somewhat towards instability and lack of understanding.

10 But I must be perfectly frank and say
11 that there are units or locations in the province where
12 there is a generally high turnover rate and those
13 locations tend to be the more isolated ones.

14 Q. Like Thunder Bay?

15 A. No, not like Thunder Bay. I am
16 thinking -- well, far more isolated spots. I don't
17 have any particular ones in mind to be fair to the
18 people who might be there. And there have been
19 criticisms of high staff turnover on some units.

20 So in answer to your question: Do I
21 agree or not agree, I don't totally agree and I don't
22 totally disagree.

23 Q. I always accuse lawyers of wanting
24 everything black and white, but I am not too sure that
25 I can get it much more black and white than that, so I

1 will just -- have to accept it at that.

2 Perhaps we can come at this a slightly
3 different way. I am going to present to you a
4 hypothetical and I am sure you have been explained how
5 to deal with that sort of a question, so take that into
6 consideration.

7 If you were transferred today from Minden
8 and, as you call it, a green forester, I presume
9 there's no pun mentioned there?

10 A. Do I get younger? Do I get younger
11 with this transfer?

12 Q. No, you are going to get older, as
13 opposed to a brown withered overmature forester, came
14 into that position. You might say that -- or, would
15 you say that he would do as good a job as, you except
16 that it might take him a little longer but otherwise
17 there would be no difference?

18 A. Well, I would hope so, yes.

19 Q. Is it fair for me to say then, Mr.
20 Hynard -- I hope this isn't too area vague a concept -
21 but you've reached the isotope of your learning curve?

22 A. No, I hope not.

23 Q. I guess that's where I can't put the
24 two together. If you are still learning and acquiring
25 knowledge, one of your major ways in learning is being

1 able to draw on the history and experience you had in
2 the unit and that knowledge that you are gaining is
3 important to you doing your job effectively, I can't
4 quite reconcile that with a young, green forester
5 coming in and not having that knowledge upon which then
6 he can move along in his learning curve.

7 A. I think that extra knowledge
8 gained -- that you gain along the learning curve - and
9 I hope some wisdom too - is useful sometimes in other
10 areas, sometimes in teaching other foresters, teaching
11 other staff, being used on other assignments. I think
12 that extra knowledge is very useful in those areas. I
13 don't think that it's absolutely essential for all unit
14 foresters to be old and brown and withered.

15 Q. Overmature?

16 A. Overmature. I think there are a lot
17 of advantages that come with that young, green forester
18 too, the idealism, the enthusiasm, the challenge, the
19 ability to work those long hard hours and dedication.

20 By the time you are my age they're
21 practically totally lost.

22 THE CHAIRMAN: I guess the physical
23 ability to climb over a few stumps?

24 MR. HYNARD: Yeah, that's right.

25 MR. HANNA: A. All right. I guess this

1 is where I am coming from, and that is one of the
2 things that I see that this Board can try and deal
3 with, is the question of the amount of information that
4 is necessary to make timber management decisions.

5 You can provide guidance to the proponent
6 and say: If you provide this amount of minimum
7 information then we, as a Board, will feel that you
8 have got an adequate amount of information to prepare
9 the normal environmental assessment under this
10 proposal.

11 Now, as I understand it, the Ministry's
12 case is saying that one of the major sources of, let's
13 say information, is the knowledge and experience of the
14 staff and you say: I am pleased to have you here, I
15 think. I guess the problem I have in looking at this,
16 from the Board's point of view - and I am going to ask
17 you to look at it from the Board's point of view - is
18 how would you suggest, given the fact that we have this
19 turnover and we have, if you will, the variation, we
20 have the green foresters and the old brown withered
21 foresters, how would you suggest the Board deal with
22 the significant variations in experience and knowledge
23 of these people in terms of the different forest
24 management units, given that they are vested with many
25 of the, let's say, decisions if you will, the decisions

1 for what actually takes place.

2 MR. HYNARD: A. Sure. Let me take an
3 example then and let me pick an example that might be
4 of interest to the Ontario Federation of Anglers &
5 Hunters on the deer herd on my unit.

6 I believe that aerial surveys of winter
7 deer yarding areas have been conducted on that unit
8 since about 1960 almost continuously. That is a
9 portion -- at least a portion of the district is flown
10 every winter and the locations of deer are mapped.

11 At the time that I first started using
12 that information in predicting where a deer would yard,
13 I referred directly to that, I took all the overlays of
14 those flights since -- back since 1960 and simply
15 overlaid them and looked for the pattern of deer use.

16 I didn't know anything about deer and we
17 had a biologist at the time who was quite familiar with
18 deer and their behaviour and, in conjunction with him,
19 we mapped out, we predicted what was important winter
20 deer habitat.

21 If I was doing that today, ten years
22 later, or if I went to another unit to do that, or if I
23 did it again on my own unit - which, by the way, I am
24 doing again - I would use exactly the same procedures
25 and I think I would get exactly the same result.

1 I don't think that my experience there is
2 going to produce a much better product. It makes it
3 easier for me to do it, but I am not sure it produces a
4 better product.

5 Q. Okay. I'm trying to look at this
6 from this Board's perspective and there is two ways to
7 deal with it. The way I see it - at a very high
8 level - one is for them to say: The Board is satisfied
9 that the Ministry of Natural Resources has the level of
10 qualifications and skills within their staff and,
11 therefore, you basically trust the Ministry and they
12 will carry forward our responsibility as a Board in
13 terms of environmental protection and we are
14 sufficiently satisfied that that would be the case.

15 The other alternative would be, they say:
16 Well, we feel that there is a good job being done out
17 there or otherwise, the Board feels that to properly
18 carry forward its responsibility to the people of the
19 province in terms of environmental protection we will
20 require from the proponent the following amount of
21 information, and that information has to be specified
22 in terms of level of qualification or whatever that
23 would be brought forward.

24 And I am just trying to ask you which of
25 those two are you suggesting would be most appropriate?

1 A. Could you summarize briefly the two
2 again?

3 Q. Sure, no problem. The one
4 possibility is to say we are satisfied with just --
5 within the Ministry and that we don't need to include
6 anything in that respect.

7 A. Yes.

8 Q. No, if you will - as Mr. Freidin
9 would say - terms and conditions.

10 A. Yes.

11 Q. The other alternative is to develop
12 some kind of, and I would not suggest it wouldn't be
13 very creative, term and condition that would provide
14 some direction, if you will - and we will get to rules
15 later - but some rule, perhaps a discretionary rule, if
16 there is such a thing, but direction in terms of how
17 that can be dealt with by the Ministry.

18 A. Well, I see your question as being
19 essentially: Do I feel that the Class EA should be
20 approved as it stands or approved with conditions. And
21 I believe that the Ministry is preparing a list of
22 terms and conditions which it feels is appropriate and
23 is submitting at the end of Panel 10.

24 I have not participated in that exercise
25 because I have a lot of other things to do too.

1 THE CHAIRMAN: Well, Mr. Hynard, I think
2 rather than deal with what the Class EA is all about in
3 terms of a broad general approach; I think the question
4 is more specific as to: What is your opinion
5 concerning the adequacy of the way in which the
6 Ministry recruits its present staff and --

7 MR. HYNARD: Is that the question?

8 THE CHAIRMAN: Well, I think what I am
9 trying to get at is this: I think what Mr. Hanna is
10 trying to get at is the present way the Ministry goes
11 about putting its staff in place.

12 It obviously has certain criteria it sets
13 out and wants to maintain a certain level of competence
14 and wants to maintain a certain coverage of various
15 types of staff positions, whether they be foresters,
16 managers, resource people, et cetera, across the area
17 of the undertaking.

18 Is, in your opinion, the way they go
19 about it now adequate or sufficient, or do you feel
20 that in order to maintain or attain certain goals that
21 there should be further direction given as a result of
22 this application in terms of staff requirements?

23 In other words, we've heard some evidence
24 I think about the inadequacy of resources in terms of
25 staff in certain areas; for instance, not enough

1 foresters around to cover all of the units, perhaps not
2 enough biologists around to service each and every
3 unit, one per unit.

4 MR. HYNARD: Yes, yes.

5 THE CHAIRMAN: And this has been a result
6 essentially of budgets and, in some cases, I would
7 suggest difficulty in recruiting appropriate staff.

8 Do you feel from your experience that
9 further guidance should be given in that area?

10 MR. HYNARD: Oh, I haven't given any
11 thought to that previously and really I am not an
12 expert in those areas at all, personnel planning and
13 placement recruitment and the whole question of human
14 resources.

15 However, my immediate reaction would be,
16 no, I can't see how that would be useful. Of course,
17 dealing with people, there are always problem areas,
18 getting the right person in the right place at the
19 right time and I think that is true of all
20 organizations and anyone who hires people.

21 I inferred there was a second aspect to
22 that and that is the question of: Is there enough --
23 are there enough people. And if you wanted my opinion
24 on that, I think that the level of forestry effort, the
25 level of silvicultural effort is a limiting factor; not

1 the number of people, the level of effort.

2 There I am talking about how many trees
3 are planted and how much site preparation is done, how
4 much tending of those areas is done, that sort of
5 thing. That's not necessarily directly related to the
6 number of people.

7 MR. HANNA: Q. Okay. There is two sides
8 to it and I am going to try and keep this as clear as
9 possible so we can move through this as quickly as
10 possible.

11 What your response there was was to the
12 amount of resources available for silviculture itself,
13 and I am interested here and I am looking at this
14 hearing as very much setting a decision-making
15 process -- planning process and I'm interested in that
16 respect.

17 In the planning process there is a whole
18 variety of things, and we will get to that in a moment,
19 but one of the things is information, and one of the
20 things that the Ministry has brought to the resource of
21 information is the knowledge and experience of their
22 staff.

23 And one of the responsibilities of this
24 Board is to say: Yes, there is sufficient information
25 or specify the minimum amount of information that

1 should be required to have an acceptable timber
2 management plan prepared under the Class Environmental
3 Assessment. And I am simply trying to come around a
4 way of trying to put that in terms that this Board can
5 draft it properly. And one way is to say: The
6 Ministry is doing the job, end of the story.

7 And I don't know whether I've have got --

8 MR. HANNA: maybe, Mr. Chairman, it is a
9 dead horse and I shouldn't flog it any further.

10 Q. Mr. Hynard, if you want to say I
11 haven't thought about it, I haven't got a response, I
12 am quite prepared for that.

13 A. Well, that's true, I haven't thought
14 about it. Your question is really what are the minimum
15 amounts of information that you need in order to
16 conduct this management planning process properly and
17 come to reasonable results.

18 Is that really --

19 Q. Well, there is two parts to the
20 question. The first is, number one: What is the
21 minimum amount of information that is required, and
22 second of all: How can this Board be assured that that
23 will take place?

24 A. Yes, yes. It varies. The amount of
25 information and the nature of the information varies

1 with the unit and the issues on the unit both for
2 timber production and for wildlife management I
3 believe. Therefore, the type of information, the
4 amount of information that you need to make decisions
5 varies.

6 If you were to ask me, on my own unit, do
7 I have enough information to conduct an appropriate
8 timber management plan, my answer would be yes. If I
9 need a particular piece of information I can collect
10 it. I have to place that, of course, in the context of
11 the entire program. I mean, I would love to know
12 everything about everything, but what I really need to
13 know is something upon which I am going to base a
14 decision, and I can collect that I can set that -- make
15 that decision and collect that data that I need.

16 Q. I think that the problem that we are
17 having here is we are trying to deal with two elements
18 of that question at the same time and the one element I
19 am really interested in is: How does this Board become
20 assured that that information that can be made
21 available is being dealt with.

22 You are saying: Yes, we've the minimum -
23 in your particular case, yes, we have the minimum
24 amount of information, it varies from site to site
25 whatever. If I simply let this issue fly, I can say:

1 Well, what you are saying is it's really not feasible
2 to try and specify the information in terms of terms
3 and conditions because it is just too complicated an
4 issue?

5 A. How will the Board assure themselves
6 that the MNR has access to adequate information? That
7 is through our direct evidence and your
8 cross-examination and, therefore, deliberations on that
9 matter.

10 Q. I appreciate that and I am sure the
11 Board appreciates that fully too, and I am just simply
12 looking to you as someone who has had a considerable
13 amount of experience - and, again, getting back to
14 that - and that is why I am asking these questions to
15 you. You are the man, you are the first person that I
16 feel comfortable in asking these questions to because
17 you have been there, and you are the person -- you are
18 still there, and I think that is very important and I
19 am trying to look at, from the Board's point of view,
20 how they should try to come to grips with this issue.

21 A. Yes, yes.

22 Q. And I am asking you to take yourself
23 out of your position as a unit forester and sit beside
24 Mr. Chairman there - conceptually, sir - and put
25 yourself in that position and try to appreciate looking

1 at province as whole and achieving their
2 responsibility.

3 A. Well, regrettably I am a unit
4 forester and you can't make a silk purse out of a sow's
5 ear. I do view it as --

6 Q. Is that a compliment to the Board.

7 THE CHAIRMAN: A Board member out of a
8 forester.

9 MR. HYNARD: And I view it in that
10 context. I will tell you one of the things that I fear
11 about a condition along those lines would be a
12 requirement to collect information that would put me at
13 work collecting information to satisfy a process which
14 may not be useful to me on my unit.

15 I prefer to have that decision about what
16 information I should be collecting. What particularly
17 I need to know with the decisions that face me - and I
18 am a professional in that area and I believe I am the
19 person in the best position to make those decisions -
20 and when I say me, I refer to foresters all across this
21 province including company foresters. They are the
22 ones in the best position.

23 If you are talking about information on
24 wildlife matters, then similarly I believe those
25 wildlife managers are in the best position to decide

1 that, especially in view of the fact -- you must
2 remember that our resources are limited, we cannot do
3 everything, everywhere all at once and what is
4 important in one area is not necessarily the same thing
5 that is important somewhere else.

6 Q. So if I can just summarize that,
7 again - I am trying to avoid the length of these
8 inquiries, but I am not getting sort of clear answers
9 on that - but back to the two propositions I put to
10 you, what you are saying is the people best in the
11 position to make these choices are the people in the
12 field, that this Board should, if you will, assign
13 their responsibility to those people because they are
14 professionals.

15 A. With regard to data collection, the
16 type of information necessary to make decisions and its
17 nature, its extent, yes, I believe so.

18 Q. Thank you.

19 A. I am sorry that my answers are so
20 lengthy, but your questions do bring forward all of
21 these elements and you estimated four days. Let's
22 raise that to five right now.

23 Q. Well, given the length of these
24 hearings I don't think another day or two is going to
25 matter, just as long as we are moving forward, that is

1 what I am trying to be conscious of.

2 You made reference in the last part of
3 your response there to company foresters. This Board
4 last heard a great amount of information, a great
5 amount of evidence in terms of Crown management units,
6 company management units, and forest management units.
7 Have you had any experience with forest management
8 units?

9 A. Forest management agreements?

10 Q. Well, okay.

11 A. I am sorry?

12 Q. We will talk about forest management
13 agreements as opposed to forest management units, fine.
14 I will take it that way. I am asking: Have you any
15 experience as a unit forester dealing with a forest
16 management unit and forest management agreements?

17 A. Perhaps there is a little
18 misunderstanding on --

19 THE CHAIRMAN: You mean a company
20 management unit?

21 MR. HANNA: No, sir. I believe there is
22 three divisions; there is a Crown management unit,
23 there is a company management unit and a forest
24 management unit.

25 Q. Is that correct?

1 MR. HYNARD: A. And forest management
2 agreement.

3 Q. There is not such a thing as forest
4 management units?

5 A. Well, there used to be. Everything
6 was a forest management -- all units. The province is
7 divided up into a number of management units for the
8 purposes of timber management.

9 At one time they were known as forest
10 management units. I think they are now called timber
11 management units for all the reasons you have heard
12 before. Some of those units are Crown units in which
13 the timber management plans are written by a Crown
14 forester, a unit forester employed by the Ministry of
15 Natural Resources. With.

16 Respect to forest management agreements,
17 FMAs, the plans are written by a company forester. Of
18 course there is the planning team and then the whole
19 approval process which you have heard plenty about and
20 will undoubtedly hear much more.

21 There is a third type - I don't know if
22 it is a third type - it is actually a Crown management
23 unit in which the assignment of writing the management
24 plan has been directed to a company forester. An
25 example of that would be the Big Pic Unit which is not

1 a forest management agreement, it is a Crown unit, but
2 the plan was written -- the principal author of the
3 plan was a company forester.

4 Q. Okay.

5 A. And your question was: Do I have
6 experience as a unit forester with all of these? No,
7 no, only with Crown units.

8 Q. That was a long answer to what I
9 thought was a simple question.

10 A. I am sorry.

11 Q. I wanted to make sure I used the
12 right terminology here. That is one of the problems we
13 have in these sort of hearings where there is a lot of
14 jargon going around.

15 I want to talk about those timber
16 management units operating under a forest management
17 agreement. Now, is there terminology for that or do I
18 have to go through that phrase each time?

19 A. Let's call them FMAs.

20 Q. In the case of FMAs, as I understand,
21 what we have just talked about proceeding with
22 respect to this business about level of information and
23 whatever, that the Board would need to extend its trust
24 in terms of environmental protection not only to the
25 Ministry of Natural Resources but also to the forest

1 companies.

2 In other words, the Board must be
3 satisfied of their ability to recruit foresters of the
4 capabilities such as yourself who will also ensure that
5 the Board's environmental concerns are appropriately
6 addressed. Is that a fair assessment?

7 A. I don't think it is quite so cut and
8 dry. In the case of FMAs the responsibility for
9 writing the management plan has been given to the
10 company.

11 The company forester who will be the
12 principal author, however, there is nonetheless a
13 planning team struck by the district manager for that
14 district and proposed of specialists in other fields as
15 well including wildlife management.

16 They all contribute towards that plan and
17 the way in which they contribute is in preparing
18 information for the values map where these other values
19 are -- for these other uses, for example wildlife, and
20 they are responsible for the information and ensuring
21 that that information is placed within that plan.

22 Their other role on the planning team is
23 ensuring that the interests of those other forest uses
24 and values are included and protected within the timber
25 management plan. So, for example, a wildlife manager

1 on a planning team, his role would be to bring forward
2 that information and to make sure that the interests of
3 wildlife management are protected in that plan.

4 With regard to the qualifications of
5 company foresters, company foresters like Crown unit
6 foresters must be registered professional foresters in
7 order to write that plan.

8 THE CHAIRMAN: Mr. Hynard, are we correct
9 in assuming that really the only fundamental difference
10 with a company is the author of the plan is in that
11 it's the company forester that writes the plan, but all
12 other players involved in the development and
13 preparation of a plan would essentially be the same as
14 on a Crown unit?

15 MR. HYNARD: Essentially.

16 THE CHAIRMAN: Meaning the MNR staff in
17 the sense of the wildlife biologist, the person
18 advising with respect to other types of values, senior
19 Ministry staff, district managers, regional managers,
20 head office?

21 MR. HYNARD: Exactly, exactly. And the
22 approval process is exactly the same.

23 The Ministry of Natural Resources
24 satisfies itself that that plan is sound with respect
25 to all of those other forest uses and values as well as

1 timber production before approving that plan.

2 THE CHAIRMAN: And is it also a fact that
3 essentially, although the forester is employed by the
4 company, the training and often the experience and the
5 learning curve that foresters go through is essentially
6 the same as for a Ministry forester?

7 MR. HYNARD: Yes. And I know many
8 company foresters, many company unit foresters and when
9 I was working on the FMA program I saw their work, and
10 I can assure you that my impression is that the quality
11 of those people, those company foresters is as high as
12 Ministry unit foresters.

13 THE CHAIRMAN: Is it not a fact that many
14 of the company foresters are drawn from the ranks of
15 ex-MNR foresters?

16 MR. HYNARD: It is true and there is
17 occasionally a vice versa too. In fact, I have even
18 seen them flip a couple of times.

19 MR. HANNA: Q. Thank you.

20 MR. HYNARD: A. I am tempted myself
21 occasionally.

22 Q. Mr. Hynard, can we just go back for
23 just a minute. You remember the line of questioning we
24 were on. I was asking you about how the Board should
25 go about this question of minimal information.

1 It was your suggestion that those
2 decisions should be made by the foresters in the field,
3 the unit forester. Do you recall that?

4 A. Yes, I do.

5 Q. And I would like to go back to that
6 question. We concluded through that, that you felt the
7 best way for the Board to deal with that was to entrust
8 those people with making those decisions?

9 A. I didn't intend to tell the Board
10 what it should do.

11 Q. No.

12 A. I gave you my feelings on the matter.

13 Q. In your opinion -- I don't think the
14 Board is going to have anybody tell them what they to
15 do, I think they are interested in peoples' opinions.

16 Now, I just want to make sure we keep the
17 context of the question I asked you. I appreciate the
18 discussion you and the Chairman had but, quite
19 honestly, I don't know if it comes to the core of the
20 question that I want to deal with.

21 And the question I want to deal with is
22 this: We are saying that those decisions -- this Board
23 has responsibility for environmental protection and one
24 of the considerations in environmental protection is
25 the amount of information that is gained to form

1 decisions.

2 And I just want to be sure that I am
3 clear in the understanding of what is being developed
4 here in terms of the roles of different players.

5 And, as I understand it - because what
6 you are saying, decisions should be made by those
7 people in the field because they are in the best
8 position, there is a high degree of variability, et
9 cetera, et cetera - that there in fact the person who
10 makes those decisions in forest management agreement
11 areas is the company forester and -- sorry?

12 A. Yes, not for all of the information
13 as I pointed out earlier, but yes.

14 Q. I am talking strictly in response to
15 the responsibility that you would have if it was a
16 Crown management unit as a unit forester.

17 And they have that responsibility and
18 this responsibility is not just in the timber
19 management plan in preparing it, but in also
20 implementing it.

21 A. (nodding affirmatively)

22 Q. And I just want to make sure, that it
23 seems to me that this is a fairly simple concept, that
24 if we are going to transfer that responsibility to
25 those people and, in fact, in forest management

1 agreements those people are in fact the company unit
2 forester, then in fact we are asking this Board to
3 entrust that responsibility to those foresters.

4 Am I missing something?

5 A. I am not sure. We have assigned the
6 responsibility of timber management planning to the
7 company in that forest management agreement. That is
8 their responsibility to write that plan and it's the
9 Ministry's responsibility to ensure that that plan is
10 acceptable before approving it.

11 If your question is: Do we tell them
12 exactly what information they need to know in order to
13 practice good timber management, no, that is their
14 responsibility. We are interested in the product.

15 Q. Could we go back to Dr. Baskerville's
16 Audit Report for a minute. Mr. Hynard, I am interested
17 to know what changes have occurred in your management
18 unit as a result of Dr. Baskerville's Audit Report?

19 A. Could you give me a moment to answer
20 that question?

21 Q. Absolutely.

22 A. In fact, if it would be agreeable
23 to you, that question requires a little thought and if
24 it would be agreeable to you, I would answer that
25 question immediately following the break.

1 Q. That is certainly perfectly fine with
2 me. All right. Can we move back to your witness
3 statement, Mr. Hynard.

4 On page 24, under MNR committees, the
5 first committee listed there is the environmental
6 assessment committee. It is a long time ago, in fact
7 it takes me back to those heady years when the EA Act
8 was first promulgated and we all thought: Well, we
9 will - some of us felt that this might have major
10 implications. And in some cases it has; other cases it
11 hasn't. I won't deal with that right at the moment.

12 I am more interested in what your
13 responsibility and duties were in that committee and
14 what responsibilities and duties that committee was
15 charged with?

16 A. It was a committee of four or five
17 people headed by Adrian van Frasen, included myself,
18 John Carey and Tom Tworzyanski. My role was to
19 participate in producing a first draft. The elements
20 of that draft on which I worked were --

21 Q. Excuse me, a first draft of...?

22 A. Well, I suppose you would call it a
23 Class EA Document.

24 THE CHAIRMAN: For this particular
25 undertaking involving these particular activities?

1 MR. HYNARD: Yes, it was. My role was to
2 describe -- the three of us Tworzyanski and Carey and
3 myself, what we did was list all of the activities that
4 we conduct, forest management activities, the elements
5 of the environment that are or might be affected, the
6 effects of those activities on the environment, and I
7 believe that is essentially it.

8 Q. Was there any report produced from
9 that committee?

10 A. There was -- I don't believe there
11 was ever a final report produced, but I am not sure of
12 that.

13 Q. So it's fair to say your history in
14 environmental assessment goes back a long ways?

15 A. Yes, it does.

16 Q. Have you had any other experience
17 with environmental assessments other than that
18 indicated with respect to this committee?

19 A. No --

20 Q. And other than actually being here?

21 A. Other than that, I have been lucky.

22 Q. I am not quite sure how the Board
23 will take that, but that's fine.

24 THE CHAIRMAN: He's has been lucky,
25 believe me.

1 MR. HANNA: Q. Mr. Hynard, did you
2 author any parts of the Class EA?

3 MR. HYNARD: A. Yes -- well, I don't
4 know that I authored it, I contributed towards some
5 pages and I believe the page numbers are contained in
6 the answer to an interrogatory I believe to OFAH -- no,
7 it wasn't OFAH. I don't recall which one.

8 Q. I think probably it was --

9 A. The NAN.

10 Q. Mr. Hunter?

11 A. Yes.

12 Q. They asked that question?

13 A. Yes, they did and we provided an
14 answer and I forget the page number.

15 Q. Have you read the entire Class EA?

16 A. No, I haven't.

17 Q. I just want to make sure I
18 understand. You are saying you are coming before this
19 Board speaking about a class environmental assessment
20 and you haven't read it?

21 A. I am coming before this Board to
22 present evidence on silvicultural harvest systems. The
23 factors influencing the choice, description of how they
24 are conducted, what they look like. That's the
25 evidence I'm presenting to the Board.

1 Q. So it's fair to say then you do not
2 feel that it's important for your evidence to
3 understand the context in which it's being used?

4 A. No, I wouldn't say that's that was
5 fair. I would say that to do this perfectly one should
6 have a total understanding of all the elements. You
7 must understand that I have a full-time job as an unit
8 forester and my ability to work on everything, so that
9 I have a perfect understanding of all the elements of
10 the environmental assessment, including all the
11 transcripts now being at page 13000 and something, and
12 all of the exhibits and all of the supplementary
13 material seems to me impossible, if not unreasonable.

14 Q. Yeah, I agree with you and I am
15 supposedly doing this quite a bit myself and I wouldn't
16 say it's my full-time job, but I likewise have a
17 problem that you have.

18 I guess though -- and I do appreciate the
19 situation you are coming from. In fact perhaps it's
20 one of the negative impacts of environmental assessment
21 itself, is it takes people like you away from your
22 jobs.

23 But I guess what I am looking at, I
24 really wasn't asking whether you hve read all of the
25 evidence, all of the submissions to the Board, I was

1 simply asking if you read one document, which is what I
2 understand is the issue before this Board and which is
3 the context in which all of your evidence is being
4 presented and I while appreciate it is somewhat
5 voluminous, I don't think it's that voluminous when I
6 compare it to, for example, the Red Lake Crown
7 Management Unit Plan, guess it may be smaller.

8 Is that fair?

9 A. Is it fair that it's it's smaller.
10 I'm not sure. My answer to you is no, I have not read
11 it all.

12 Q. Well, I am just trying to get the
13 content of the amount of paper that comes across your
14 desk and you're saying it's more paper than you can
15 cope with, I believe. Is that what you're saying?

16 A. Yes, that's essentially what I'm
17 saying.

18 Q. Thank you. So it would not be fair
19 for me to say that you are familiar with the contents
20 of the document?

21 A. That's right, not all of the contents
22 of the document. However, we have got other panel
23 members here who are familiar with the contents and I
24 am sure we can satisfy your questions.

25 Q. Well, I appreciate that, Mr. Hynard,

1 and I am sure there will be a lot of people reading the
2 Class EA tonight, so I will be able to ask those
3 questions of the other panel members.

4 I guess the question I am asking you is:
5 I see this Class EA as being directed full square at
6 people such as yourself, the unit forester.

7 If you will, I see people like yourself
8 as being the hub, the group that are going to make or
9 break the Class EA and I just want to get appreciation.
10 Do you fully understand the contents of the Class EA?

11 A. Fully is completely, one hundred per
12 cent.

13 Q. Well, define it as you will.

14 A. I don't know that I do.

15 Q. Okay. Would it be fair to say that
16 you feel able at this time to put it into practice as a
17 unit forester?

18 A. I will certainly be able to put into
19 practice --

20 THE CHAIRMAN: Well, when you say put
21 into practice the EA, are you saying put into practice
22 the management process contemplated by the EA, the
23 environmental assessment?

24 MR. HANNA: Well, I think there is more
25 than a management process in the EA in all fairness,

1 Mr. Chairman. I think the environmental assessment is
2 an environmental assessment of the management process,
3 but there is a management process and there's an
4 environmental assessment, and I see the two as quite
5 distinct.

6 THE CHAIRMAN: Well, what specifically
7 are you asking the witness?

8 MR. HANNA: I am asking the witness -- I
9 am saying that this Class EA puts out a class
10 environmental assessment which is an environmental -- a
11 procedure to develop an environmental assessment not a
12 timber management plan; it's an environmental
13 assessment of the timber management plan.

14 I am asking this gentleman if he feels
15 capable of implementing what is in that class
16 environmental assessment.

17 THE CHAIRMAN: Well, Mr. Freidin may want
18 to comment on that. I don't know.

19 MR. FREIDIN: Well, I am having some
20 difficulty following the question. Perhaps the
21 question, rather than using the term environmental
22 assessment which has some special connotations to the
23 questioner, if he can sort of discard the use of that
24 phrase and put the question more directly.

25 If there is some specific part of the

1 timber management that he is concerned about the
2 ability of the foresters to in fact conduct in an
3 acceptable way, than maybe he should ask that question.
4 If it's a question about the planning process, he
5 should speak about it after.

6 I think this concept of the environmental
7 assessment has so many connotations about it, that he
8 should try to stay away from that particular -- that
9 general sort of question.

10 MR. HANNA: Well, I guess I'm at a bit of
11 a loss here, Mr. Chairman. I thought this was an
12 environmental assessment hearing, not a timber
13 management hearing and I am coming at it as an
14 environmental assessment.

15 Perhaps that's where I am incorrect.

16 THE CHAIRMAN: Well, I don't think we are
17 going to get into a lengthy debate at this time,
18 because it could go on for some time.

19 But I think if you are going to ask the
20 witness a question about his knowledge and ability to
21 carry out something that you refer to as the
22 environmental assessment, you have to give him more
23 precise guidance as to what you are looking for.

24 MR. HYNARD: Well, if I can answer to
25 qualify it myself, in a fairly brief answer, that I

1 would certainly feel capable of implementing any
2 conditions that result from this class environmental
3 assessment that the Board charges the Ministry with, I
4 will certainly be able to, I feel, perfectly capable of
5 and I am going to ask you --

6 MR. HANNA: Q. I would say to you, Mr.
7 Hynard, that you are much more risky than I am because
8 I have no idea of what the terms and conditions that
9 might come out of this.

10 I guess you're putting a lot of faith in
11 the Board, like the Board is going to have to put in
12 you, so I find it a very difficult thing to say.

13 Mr. Freidin, did you...?

14 MR. FREIDIN: No.

15 MR. HANNA: I will attempt, sir, to try
16 and keep my questions narrow in scope and specific as I
17 can.

18 Q. Well, perhaps I can ask you this
19 question, Mr. Hynard: On those parts of the class EA
20 that you have read and that you do understand, do you
21 agree entirely with what is put forward?

22 MR. HYNARD: A. I am not in a
23 position -- that's a very vague question. And do I
24 agree with parts of it that I have read? Which parts?

25 Q. You tell me. Perhaps we should start

1 there.

2 A. Well, it's not an area in which I was
3 qualified as an expert witness and it's not an area --
4 unless you are going to be specific with a particular
5 sentence and provide me with the time to think about it
6 as to whether I agree or not, I am unable to answer the
7 question.

8 MR. FREIDIN: Mr. Chairman, I think
9 that's an unfair question of any witness and, again, we
10 have to keep in mind that the environmental assessment
11 is all the evidence which is going --

12 THE CHAIRMAN: That's right. I don't
13 know that it would be helpful, Mr. Hanna, to the Board
14 because it includes all the testimony by all witnesses
15 before the Board and as well as the documentation as
16 well as the supporting documentation.

17 MR. HANNA: I appreciate the Board's
18 interpretation of environmental assessment, sir, and I
19 understand what you are saying.

20 I think perhaps in my question -- perhaps
21 then I should have been a little bit more specific
22 about it and I would have said what I was referring to
23 was Exhibit 4 and the contents in Exhibit 4. I was not
24 asking a witness to comment on all the evidence before
25 the Board.

1 THE CHAIRMAN: Well, I think for a
2 witness to have the question put to him on a panel: Do
3 you agree with every word in Exhibit 4 or every
4 statement put forward in Exhibit 4, again, is unfair in
5 the sense that he can't be expected - I don't think
6 anyone can be expected - to remember every statement
7 that was made in the document, and not having had an
8 opportunity to address his mind as to whether or not he
9 agrees with or wants to qualify some of those
10 statements, it may not be that simple. He may agree in
11 general with most of the statements but wish to qualify
12 some of them.

13 So I think you have to stay away from
14 that broad a general question and hone in on something
15 specific to which this witness can address his mind
16 specifically.

17 MR. HANNA: I appreciate the direction,
18 Mr. Chairman.

19 Q. Perhaps just to wrap this up. Is
20 there anything at this moment which you would want to
21 bring to the Board's attention with respect to the
22 Exhibit 4 solely - I am not asking you to go into any
23 of the other components of the EA - that you would
24 say: There is something I have a problem with?

25 MR. HYNARD: A. No, there is nothing.

1 THE CHAIRMAN: Perhaps if you are going
2 to move on to another area, we can contemplate the
3 morning break at this time.

4 MR. HANNA: I am not moving on to another
5 area, but let's take one. It's a been long one for me
6 this morning and I would be quite prepared to have a
7 break at this point.

8 THE CHAIRMAN: Okay. We will break for
9 20 minutes.

10 Thank you.

11 ---Recess taken at 10:20 a.m.

12 ---Upon resuming at 10:55 a.m.

13 THE CHAIRMAN: Thank you. Be seated,
14 please.

15 MR. FREIDIN: Mr. Chairman, I would ask
16 Mr. Hanna for an opportunity to just make a few short
17 remarks to the Board. I make these remarks in an
18 attempt to clarify some matters which I think arise
19 from some confusion just before the break and that was
20 this discussion about the environmental assessment and
21 what constituted it.

22 Now, Mr. Hanna has asked Mr. Hynard about
23 his knowledge of the environmental assessment and, as I
24 listened to his evidence, I hear him suggesting that
25 the Ministry of Natural Resources is seeking approval

1 of an environmental assessment and, therefore, Mr.
2 Hynard should be aware of the details of that
3 environmental assessment, otherwise how could he say
4 whether he could implement it.

5 I think the following points will clarify
6 the Ministry's position and perhaps will assist Mr.
7 Hanna in formulating his questions.

8 No. 1: The Environmental Assessment Act
9 requires approval under that Act to carry out an
10 undertaking. The undertaking has been defined as
11 timber management - without using the exact words set
12 out in the Environmental Assessment Document - it's
13 defined as being the interrelated activities of access,
14 harvest, renewal and maintenance.

15 The Environmental Assessment is Exhibit 4
16 and all the evidence which you will hear in this
17 hearing process is the mechanism through which the
18 Board will determine whether the Environmental
19 Assessment, that's the document and the evidence, is
20 acceptable and supports an approval of the undertaking.
21 It is the undertaking for which approval is being
22 sought.

23 Now, a review of a planning process with
24 which Mr. Hynard is familiar is an important part of
25 the assessment. It is not, however, in my respectful

1 submission, Mr. Chairman, what the Board is here to
2 approve. The Board is here to deal with and determine
3 whether the EA, the Environmental Assessment is
4 acceptable and whether it should grant approval for the
5 undertaking, the carrying out of the activities of
6 access, harvest, renewal and maintenance.

7 It is expected --

8 MS. SEABORN: Mr. Chairman. I'm sorry
9 to interrupt, Mr. Freidin.

10 It's one thing for Mr. Freidin to give
11 some direction for the benefit of Mr. Hanna as to what
12 Mr. Hynard is here to give testimony on, but I think
13 it's quite another thing for Mr. Freidin at this point
14 to get into an argument -- get into argument before the
15 Board as to what this Board is here to do. I don't
16 think partway through a panel is the appropriate time
17 for parties to be making submissions as to what the
18 Board is looking at.

19 We had opening statements, we can refer
20 back to those opening remarks. I don't think Mr.
21 Freidin is saying anything that's a surprise to me or a
22 surprise to the Board. I think these are things that
23 we heard in his opening statement and he can refer Mr.
24 Hanna to that if he thinks Mr. Hanna needs to be
25 reminded of what the Ministry's position is.

1 THE CHAIRMAN: Well, we are certainly,
2 Ms. Seaborn, not getting into argument at this stage
3 over what is before the Board and exactly what the
4 Ministry is asking for in terms of approval.

5 That, as you realize, Mr. Freidin, will
6 be the subject of a more comprehensive submission to
7 the Board I think at the end of Panel 15 when you put
8 in your conditions.

9 MR. FREIDIN: Oh, we are putting our
10 terms and conditions in at the end of this panel.

11 THE CHAIRMAN: Sorry, at the end of this
12 panel.

13 MR. FREIDIN: And other peoples' regards
14 at the end of our case.

15 And I am not trying to repeat any sort of
16 submissions I made. I want it to be clear that what
17 Mr. Hynard can deal with and why -- well, I think -- I
18 only have a few more comments, Mr. Chairman, and I
19 would asked to be allowed just to finish.

20 THE CHAIRMAN: All right. I think, Ms.
21 Seaborn, we are going to let Mr. Freidin just continue
22 on in this vein for a short time because there are some
23 difficulties, Mr. Hanna, in asking the witness, you
24 know, whether or not he has knowledge of the EA in the
25 form in which you did.

1 MR. FREIDIN: I will finish in 45
2 seconds.

3 MR. HANNA: Can I just add one this one
4 thing. I am quite prepared to permit this to continue
5 on. From my point of view, I'm quite happy that this
6 is coming up, it will help me in my clarifying where my
7 cross-examination is going.

8 I only ask the Board's indulgence that I
9 get a chance to respond to what Mr. Freidin says.

10 THE CHAIRMAN: Well, again, we are not
11 going to get into argument because then we have to
12 allow all of the other parties the opportunity to argue
13 as well.

14 I think what we're going to do is this:
15 We are going to allow Mr. Freidin to finish in 45
16 seconds or less and what he is giving you is perhaps at
17 this juncture more helpful than just referring you back
18 to the opening statement which you may or may not
19 recall at this point in time.

20 Ms. Seaborn, there will be an
21 opportunity, believe us, later on to argue out the
22 question concerning what the exact mandate of this
23 Board is, vis-a-vis the application at a later date.
24 Of course, all parties will have the opportunity to
25 respond at that time.

1 MS. SEABORN: That's fine, Mr. Chairman,
2 and I have no difficulty with Mr. Freidin continuing in
3 the context that you have put and I'll put it to the
4 parties that this isn't the time for argument.

5 THE CHAIRMAN: No, this isn't the time
6 for argument, we are not ruling one way or the other on
7 anything that you are saying, it's just it has to be
8 helpful to this panel and to Mr. Hanna in terms of the
9 questions poses, otherwise the Board will have to
10 intervene on several occasions and just indicate that
11 the witness can't respond to that type of question.

12 MR. FREIDIN: Okay. Having said what it
13 is that the Ministry is seeking approval for, it's
14 expected however that the terms and conditions of the
15 Board's approval would include a provision that will
16 require the use of a planning process for which the
17 essential ingredients or elements will be defined by
18 this Board.

19 What I am saying is, Mr. Hynard can
20 answer questions regarding the proposed planning
21 process, its implementation and the activities which
22 are planned for and for which the Ministry is seeking
23 approval.

24 I hope those comments are of assistance
25 to Mr. Hanna and the Board.

1 THE CHAIRMAN: Thank you.

2 MR. HANNA: Mr. Chairman, I was hoping I
3 didn't have to get into these sort of debates in the
4 beginning, but I realize that's part of my
5 responsibility here and I will try and do by best.

6 And perhaps it is useful for the Board
7 and Mr. Freidin to understand where I am coming from,
8 and I understand it's not the time to argue this issue
9 and it's not my intent. By the same token, I'm sure you
10 appreciate that it could prejudice my clients if in
11 fact my line of cross-examination is limited and in
12 fact at the end, when argument does come forward, that
13 the Board rule perhaps not in the way that Mr. Freidin
14 has put the case forward.

15 So I only bring that forward, but the
16 Board has not ruled on it and we have to be very
17 careful about that line in terms of where the
18 cross-examination goes.

19 THE CHAIRMAN: Well, we understand what
20 you are getting at but, by the same token, the
21 questions that have to be put to the witness in
22 cross-examination or in direct have to be in the
23 context of this application.

24 MR. HANNA: Absolutely, sir, and I will
25 attempt to do that.

1 And I can assure you certainly from where
2 I am coming from, as I say, I have a fairly sound
3 appreciation of the Environmental Assessment Act and
4 the process and issues that are before you and I think
5 you will see at the end of the questions I am asking
6 this witness that they are in direct relevance both to
7 the Environmental Assessment Act and the issues before
8 this Board.

9 THE CHAIRMAN: Okay.

10 MR. HANNA: We are going to come back to
11 Mr. Baskerville -- or excuse me, Dean Baskerville, and
12 Mr. Hynard's response to it.

13 Before I ask Mr. Hynard's response, I
14 said there were a couple of procedural issues that I
15 wanted to get sorted out and we've now the procedure,
16 so perhaps we can just continue on with those, if we
17 could, for just a moment.

18 There is two issues that I would like to
19 get the Board's direction on. The first is, I believe
20 when you retained counsel -- the Board counsel, Mr.
21 Turkstra, that you instructed him to discuss with
22 full-time parties as to the bringing of Dr.
23 Baskerville's evidence before the Board. I would ask
24 that the Board also instruct counsel to speak to my
25 client, the Federation of Anglers & Hunters because I

1 think we have -- while we are a part-time party, I
2 think we have some comments that we would like to
3 provide to Board's counsel in that respect.

4 THE CHAIRMAN: We will so instruct
5 counsel.

6 MR. HANNA: Thank you. The second thing,
7 and I quite honestly, I really I feel, see, on this one
8 you've cut me off somewhat. Give me some direction
9 where to go on this.

10 I have read carefully the transcripts
11 that dealt with the discussion of the calling of Dr.
12 Baskerville and how the Board would deal with that,
13 whatever, and I read the Board's ruling in terms of Dr.
14 Baskerville's evidence. What I am asking for direction
15 on is interpretation of that ruling.

16 And I don't quite -- as I say, I don't
17 know the procedures, how to ask the Board that question
18 and I am really asking for direction. What I would
19 like to get is a greater clarification in terms of how
20 Dr. Baskerville will respond to, for example -- I
21 believe -- I'm pretty sure the transcript will stand
22 testament for this.

23 He's probably the most quoted expert in
24 the hearing, at least to this point, I don't think
25 there's hardly a panel that his name hasn't arisen.

1 And I just want to get the Board's
2 direction as to what instructions - given the ruling
3 that you had presented, how -- where his name has come
4 up in the hearing and where exhibits have been brought
5 in that are in fact authored by Dr. Baskerville, how
6 they will be dealt with when he is brought before the
7 Board.

8 THE CHAIRMAN: Well, as I understand the
9 ruling that the Board made, and I may have to confer
10 with my colleagues during the lunch break on this, it
11 is contemplated that counsel for the Board, Mr.
12 Turkstra will be in touch with Dr. Baskerville to
13 outline the terms of what his appearance will
14 constitute.

15 As we understand it, Mr. Turkstra will be
16 leading Dr. Baskerville through direct examination with
17 reference to his Audit which is Exhibit 126, and
18 possibly with reference to some of the reports authored
19 by Dean Baskerville himself.

20 There are two or three other reports that
21 have been referred to in the evidence and I think, in
22 some cases, exhibited that were authored directly by
23 Dean Baskerville.

24 MR. HANNA: I think there is more than
25 three.

1 THE CHAIRMAN: Well --

2 MR. HANNA: Yes, there is a number of
3 them.

4 THE CHAIRMAN: There are some. In
5 addition, the Ministry as part of the Class EA - I
6 think it's Appendix 7 - formulated what they call an
7 Action Response not only to Dean Baskerville's report,
8 but in response to other concerns.

9 Those parts of Appendix 7 dealing with
10 the response to Dean Baskerville's Audit Report will
11 also be dealt with during Dean Baskerville's appearance
12 and, after being led through examination-in-chief by
13 the Board's counsel, Mr. Turkstra, then all of the
14 parties, including the Ministry, will have the
15 opportunity to in effect cross-examine Dean Baskerville
16 on those areas.

17 And the areas that we are dealing with
18 are restricted to the Audit Report, the other articles
19 directly authored by Dean Baskerville and those parts
20 of the Ministry's response to Dean Baskerville's Audit.
21 We will not be entertaining any examination of Dean
22 Baskerville with respect to his views on the adequacy
23 or otherwise of the EA before us or of anything else in
24 terms of --

25 MR. HANNA: Evidence-in-chief.

1 THE CHAIRMAN: No, no, in full.

2 MR. HANNA: Cross-examination also?

3 THE CHAIRMAN: That's right. We are
4 having Dean Baskerville before the Board for a limited
5 purpose of time -- sorry, for a limited purpose and the
6 purpose that we see as being most useful is for him to
7 comment on his Audit and the Ministry's response to
8 that Audit.

9 Now, part of the difficulty, Mr. Hanna,
10 is the fact that Dean Baskerville has not been here
11 throughout the proceedings, he is not apprised I would
12 suspect of much of the evidence that has gone in, he is
13 not to be expected to, nor are we requesting that he
14 review all of the transcripts and all of the
15 documentation that is now before this Board.

16 We don't anticipate, as you can imagine,
17 having Dean Baskerville here until the conclusion of
18 Ministry's proceeding -- sorry, part of the case which
19 at this rate probably won't occur until the end of this
20 year or thereabouts and, at the point in time, the
21 hearing will have been going on for some 15 months or
22 so. And, as well, Dean Baskerville won't have had the
23 opportunity of hearing those parties in opposition put
24 in their case.

25 So that we are not requesting of Dean

1 Baskerville his opinion as the point of his appearance
2 as to what the Board itself has the mandate to decide.

3 MR. HANNA: Thank you. It does raise
4 another issue that relates specifically to Dr.
5 Baskerville, maybe we should get this all tidied up
6 now.

7 In the event that another party was
8 interested in obtaining Dr. Baskerville's opinion in a
9 broader scope than what the Board has suggested, is it
10 open to another party to call Dr. Baskerville
11 admittedly as their witness.

12 THE CHAIRMAN: I would think there may
13 possibly be a conflict, I am not sure. He has been
14 called as the Board's witness, but he has been called
15 the Board's witness not to take a particular position
16 but to clarify his Audit Report and his views expressed
17 in that report.

18 And for another party to call Dr.
19 Baskerville independently at some stage down the road
20 would probably place him in the position of being a
21 witness supporting a particular party's position. I
22 don't know.

23 MR. HANNA: Perhaps --

24 THE CHAIRMAN: Now, as you will recall,
25 Mr. Hanna, we have indicated since the outset of this

1 hearing that it would probably be beneficial to have
2 Dean Baskerville testify. We certainly threw it out to
3 many of the parties, including the Ministry, as to
4 whether or not they might independently call Dean
5 Baskerville and it appeared that although everyone
6 seemed to agree that his appearance would be beneficial
7 to the Board and to the matters under deliberation,
8 nobody appeared willing at that point to necessarily
9 call him.

10 And we decided, in view of the fact that
11 the Audit has been referred to by many parties on both
12 sides of the spectrum, that perhaps it would be best if
13 the Board called him as a witness themselves.

14 MR. HANNA: Well, Mr. Chairman, I fully
15 concur with the fact that to get the full benefit of
16 Dr. Baskerville's expert opinion, that to bring him in
17 as a neutral witness is an advantage. In fact, having
18 been an expert witness myself, I think the Board would
19 be interested in having the Board call all expert
20 witnesses on the advice of the parties. But that's
21 another issue we won't enter into today.

22 I think the question very much is one of:
23 We have here a gentleman who is probably, if not the,
24 one of the most -- I would say, one of the leading
25 people in the country in terms of this particular

1 And I guess I feel somewhat -- quite
2 seriously, I guess prejudiced in terms of, I would like
3 to have his opinion in terms of - because of his
4 experience, because of his ability in having dealt with
5 many of the types of issues that are coming before the
6 Board - his opinion in terms of the adequacy of what's
7 being brought forward; adequacy not in the view of the
8 Board in terms of all of the evidence and whatever, but
9 in terms of --

10 THE CHAIRMAN: Well, this is the whole
11 point, that we are charged with the responsibility of
12 determining the adequacy of this environmental
13 assessment.

14 MR. HANNA: Absolutely, sir, and
15 likewise, each expert comes forward and gives you their
16 advice and says: In my view this might be a good
17 process or this may not be a good process, and the
18 Board takes that into due consideration and, on that
19 basis, we've arrived at a decision.

20 I am simply saying that it sounds to me
21 like the Board is going to not be able to obtain that
22 view of Dr. Baskerville given the scope and the limits
23 that are being put on the evidence that he's bringing
24 forward.

25 The other issue that I would raise, and

1 that is simply, you had suggested no party was
2 intending to bring Dr. Baskerville forward. I can't
3 say where the Board got that impression, but I can tell
4 you that - and I can provide documentation on file
5 within the Federation - that we had every intention of
6 calling Dr. Baskerville, and I can give you telephone
7 conversations that I have had with Dr. Baskerville
8 asking about the possibility of appearing as a witness.
9 And he had indicated to me at that time that the
10 Ministry was planning on calling him as a witness.

11 And I think if we go back through the
12 transcripts you will find at the beginning of this
13 hearing that the Ministry undertook to call Dr.
14 Baskerville as a witness. The Ministry changed their
15 position and, given that change in position --

16 THE CHAIRMAN: Well, I am not sure the
17 Ministry changed their position. The Board, from time
18 to time, suggested strongly that perhaps the Ministry
19 might consider calling Dr. Baskerville, and I think at
20 one point we even went so far as to suggest that you
21 might contact him to see if he was available.

22 MR. FREIDIN: I think the evidence was
23 the Ministry was prepared to call him and the thing
24 which led to the Board calling him themselves was my
25 inability to guarantee that Dr. Baskerville would speak

1 on subject A, B or C.

2 MS. SEABORN: Mr. Chairman, if I could
3 just be afforded a quick comment on this. My
4 understanding of the law has always been, there is no
5 property in a witness.

6 If Mr. Hanna and his client want to
7 contact Dr. Baskerville, that is fine. I don't think
8 we need to discuss this matter in front of the Board
9 because Mr. Turkstra has been retained and I would
10 recommend that, if Mr. Hanna wants to discuss this
11 matter further, that he should be contacting Mr.
12 Turkstra and dealing with it in that form.

13 I don't think it is productive to get
14 into these details in front of the Board at this time.

15 MR. HANNA: I will certainly take that
16 direction, sir.

17 THE CHAIRMAN: Well, I think perhaps that
18 is a good suggestion, Ms. Seaborn.

19 Mr. Turkstra has been instructed to
20 contact Dean Baskerville on the Board's behalf. I
21 think if there are any further questions as to what
22 other roles he might play in these proceedings, if any,
23 it might just as well go through Mr. Turkstra.

24 MR. HANNA: Fine. I hope we can deal --
25 we may have to bring it back depending on how that

1 goes, but I hope that that is certainly a more
2 efficient way of handling this.

3 Perhaps then I can move back. Sorry, I
4 told you I didn't know much about procedures, so I
5 appreciate your indulgence in that respect.

6 Q. Can I go back to Mr. Hynard then,
7 please.

8 Mr. Hynard we were talking about Dean
9 Baskerville and you had asked to have the break to give
10 some thought to a question I asked you and I will just
11 repeat the question and then perhaps I can get your
12 answer.

13 I asked you what specific changes have
14 occurred in your management unit in response to Dr.
15 Baskerville's Audit Report. Can you give us your
16 answer now, please?

17 MR. HYNARD: A. In answering, I would
18 like to refer to Appendix 7 of Exhibit 4, the Class EA
19 Document.

20 Q. I am sorry, Mr. Hynard, I was
21 distracted, could you just repeat that?

22 A. I have just asked you to refer to
23 Appendix 7, Exhibit 4, that is the summary of the
24 Ministry's action plan to the Baskerville Audit that is
25 contained at the back of the Class EA Document. It is

1 one of the parts that I have read.

2 Q. I have got a big version here, it
3 takes me a while. Just a second.

4 A. Of the 16 actions to be undertaken by
5 MNR, only 8 relate directly to me at the management
6 unit level, the first of which is No. 1 "with regard to
7 the Ontario wood supply model which the Ministry uses
8 to determine harvest levels:

9 "Will be modified to provide improved
10 local projections and will be at the
11 disposal of all field foresters by
12 December, 1987."

13 Those modifications have been made, that
14 AWOSFOP model is available to me as a unit forester.
15 I have not used it because I am just now at the stage
16 below from MAD calculations and I may not use it in the
17 final plan because of its -- because its greatest
18 abilities are in projecting management planning regimes
19 for boreal forest situations.

20 Baskerville pointed that out in his Audit
21 on page 36 regarding AWOSFOP, that it did not apply to
22 Minden and uneven-aged management.

23 The second action to be undertaken, No.
24 2, it states:

25 "Information on timber volumes for areas

1 of the existing natural forests specific
2 to the management unit level will be
3 available by December, 1987."

4 As the unit forester at Minden I, am not
5 aware of any new information on my management unit or
6 of the specific tools to be used in gathering
7 information on timber volumes for areas. That is the
8 famous area of volume link with which the Ministry has
9 wrestled for so long and I am sure will surface in
10 Panel 15. It is probably best to defer it until then.

11 Q. That is fine.

12 A. The third that affects me directly is
13 No. 5.

14 "The Ministry has just completed a major
15 study on mill demand and timber supply
16 across northern Ontario, including the
17 Algonquin region. Information from this
18 wood flow study will be used in
19 conjunction with Dr. Kyle's report."

20 I understand that information has been
21 gathered and is available at the Algonquin region
22 office and I will be referring to it later in my
23 management plan when I look at the licensing aspect.

24 No. 6:

25 "A series of workshops are underway to

1 train field foresters to use economic
2 criteria in decisions on lands to be
3 regenerated."

4 That has been done and, in fact, I was
5 one of the instructors on the workshops.

6 Q. So it's not only affected your unit,
7 you effected it?

8 A. Yes. No. 7:

9 "Beginning in 1897, all new timber
10 management plans will contain clear
11 statements of objectives that are
12 measurable and attainable."

13 Yes, that has been done. Direction on
14 objective-setting for management plans has been
15 delivered to all unit foresters including me and I will
16 be using that in the development of my objectives on my
17 TMP.

18 Q. Mr. Hynard, do you want to go through
19 them all, or should I ask you questions about them as
20 we go? It is up to you, what you feel most comfortable
21 with.

22 A. Perhaps if I could finish that,
23 first.

24 Q. All right.

25 A. No. 11:

1 "Senior Ministry management is taking
2 steps to communicate to all forestry
3 staff that systematic management planning
4 should not be allowed to impede
5 innovation and that the role of the unit
6 forester is crucial to the success of the
7 forest management program."

8 Well, I believe I received that
9 communication long before the action plan. I have
10 never lived under the impression that it should impede
11 innovation.

12 No. 12:

13 "New criteria for levels of
14 responsibility, accountability and
15 progressive career development for
16 Ministry foresters will be developed
17 within the next 12 months. Unit
18 foresters will be accountable for the
19 forest management unit."

20 A report was -- a report on this action
21 plan was prepared by Mr. Armson, I was a member of that
22 committee. I am not aware of the status. I do not
23 believe that any of its recommendations have yet been
24 implemented.

25 The last one is No. 14:

1 "To ensure that accountability for forest
2 management units is well defined within
3 the Ministry, all FMAs and Crown
4 management units will be the
5 responsibility of full-time unit
6 foresters by the beginning of 1988."

7 Well, I have been a full-time unit
8 forester on the unit for a long time. It's getting
9 more and more part-time as these hearings progress.

10 Q. I thought that is what you were going
11 to say. There is only one thing I just wanted to deal
12 with there, and I am going to be discussing this with
13 other witnesses on this panel, but perhaps you can just
14 clarify it for for me. It is No. 7.

15 Now, you indicated that you haven't
16 started -- you indicated that you haven't started
17 preparing your new management plans for your unit yet?

18 A. I have begun preparation, I have not
19 written the objective section.

20 Q. You haven't written them?

21 A. No, I have been busy.

22 Q. Okay. Well, maybe it isn't wise to
23 pursue that at this time.

24 Perhaps you can just answer for me: Are
25 you anticipating that objective will have - I believe

1 as Dr. Baskerville recommended, I can get the
2 reference, if you will - measurable and quantifiable
3 and I believe linked objectives for non-timber values?

4 A. With regard to non-timber values, at
5 this stage I am uncertain. I put the question directly
6 to the other members on the planning team whether it is
7 their wish to quantify objectives regarding their other
8 values in the timber management plan, what the value of
9 doing so would be, and to make recommendations to me on
10 that.

11 Their sense was that there would not be a
12 particular value in doing so, but it has not -- our
13 decision hasn't been finalized.

14 Q. Okay. Can we continue on then to
15 where we left off after the break in terms of the lines
16 of questioning.

17 And I guess it does -- it relates
18 somewhat to what Mr. Freidin mentioned at the outset of
19 this session at the beginning -- after the break, and I
20 will try and keep that in mind as we go through it and
21 hopefully you will too.

22 I guess it's my understanding of an
23 expert coming before a Board of this nature, they
24 prepare their evidence with some purpose in mind, some
25 purpose of bringing forward evidence, and that purpose

1 usually has some relationship to the application that
2 is being put forward to a tribunal of this nature to
3 make a decision on it.

4 And I want to get your view on what the
5 purpose of your evidence is with respect to the
6 decision that this Board is being asked to make?

7 A. I think the purpose of the Panel 10
8 evidence is fairly clear. It is to describe the
9 activities of harvest, the various methods by which
10 harvest is affected, the environment that is affected
11 by harvest, and the effects of the harvest on that
12 environment. My role -- oh yes, and mitigation of
13 those, measures to mitigate those effects upon that
14 environment.

15 My role was to describe one aspect of
16 harvest, silvicultural harvest systems. My purpose was
17 to provide to the Board clear information on those
18 silvicultural harvest systems that the -- the various
19 methods of the various silvicultural systems, the
20 decision -- how the decision was arrived at upon the
21 choice of a system and to give a clear view on what
22 they were like, what it's like out there in the forest.
23 That was the purpose.

24 Q. Now, I am going to come back to that
25 in a minute. Before I do, I want to make sure we are

1 on the same wavelength on that understanding, it would
2 be a little more productive in the following questions.

3 What I would like to ask you - and this
4 is in keeping, I am keeping in mind what Mr. Freidin's
5 advice to me was, and I appreciate his advice with
6 respect to the application - but I would like to get
7 your understanding of the differences between an
8 individual environmental assessment and a class
9 environmental assessment?

10 THE CHAIRMAN: Well, that has perhaps
11 legal connotations when you take into account, Mr.
12 Hanna, the requirements of the Act and the various ways
13 in which that legislation regulates the activities of
14 proponents who might require the Ministry or the Board
15 to make a decision in that area.

16 MR. HANNA: This may be my lack of
17 experience, Mr. Chairman, I'm sorry. I don't follow
18 what you have said, I'm sorry.

19 THE CHAIRMAN: Well, are you asking this
20 witness for what he feels, in his opinion, is the
21 difference between a class environmental assessment and
22 an environmental assessment that is handled in other
23 than a Class EA manner?

24 I am not sure what your question is,
25 maybe I misunderstood you.

1 MR. HANNA: Well, perhaps I didn't -- I
2 often leave words out when I am speaking and thinking.

3 What I was asking was you have an
4 individual environmental assessment, you have a class
5 environmental assessment. As I understand, this is
6 class environmental assessment, and I am simply asking
7 Mr. Hynard what his view is of the difference between
8 an individual Class EA and - I am sorry, excuse me, as
9 I say, my words and my mind don't often go together
10 some times - an individual EA and a Class EA.

11 And the reason I am asking that, I am
12 asking with respect to the evidence he has brought
13 before the Board. I am not asking, as I say, to give a
14 wide open answer to that, I am asking with respect to
15 the evidence that he is bringing forward to this Board.

16 THE CHAIRMAN: Well, I am not sure that
17 this witness would be qualified to provide that kind of
18 answer.

19 MR. FREIDIN: That would be the position
20 I would take, Mr. Chairman.

21 THE CHAIRMAN: Mr. Hynard, have you ever
22 been involved in an individual assessment under the
23 Environmental Assessment Act?

24 MR. HYNARD: No, I never have. You are
25 quite right, I am not qualified to provide an answer to

1 that question.

2 MR. HANNA: Q. Mr. Hynard, you did say
3 though you worked for two years on this Class
4 Environmental Assessment from 1975 to 1977.

5 MR. HYNARD: A. No, I was the unit
6 forester during that period. I was assigned to
7 participate in that exercise to the extent that I
8 described to you earlier.

9 MR. HANNA: Mr. Chairman, I guess the
10 difficulty I am having here is that perhaps it's my
11 view of a witness, an expert witness and perhaps all
12 the rest of the world's view of an expert witness.

13 My view of an expert witness is, they
14 come forward with particular evidence to support a
15 specific application and that evidence -- usually the
16 expert is instructed as to what evidence he is asked to
17 prepare and given some context within which that
18 evidence should be prepared with respect to the overall
19 case.

20 And I am simply asking this witness --
21 this is a class environmental assessment, I am asking
22 if the evidence that he has prepared, how it would be
23 different than an individual EA.

24 If the witness says, I don't know what an
25 individual environmental assessment is, well obviously

1 I would have to terminate that line of questioning.

2 MR. FREIDIN: Sorry, he can't answer.

3 MR. HANNA: He doesn't know, I'm sorry.

4 Q. Mr. Hynard, you don't know what an
5 individual environmental assessment is?

6 MR. HYNARD: A. I said that I never
7 worked on an individual environmental assessment and I
8 am not qualified to provide an answer to your question.

9 Your question was: Would I provide my
10 understanding of the differences between a class
11 environmental assessment and an individual
12 environmental assessment. I am not qualified to give
13 an answer that would be of any use to the Board.

14 MR. HANNA: Mr. Chairman, I think you
15 will see later in the cross-examination that, in my
16 view, this witness has come forward and has provided
17 expert testimony in terms of methods -- alternative
18 methods, and I believe that is clearly set out in the
19 Act, and has spoken about the need of rationale for
20 alternative methods, and I will be speaking
21 specifically to the transcripts where that is
22 mentioned.

23 If this witness is saying that he is not
24 capable of providing that evidence, then I am not just
25 sure what I should do with that.

1 THE CHAIRMAN: Well, Mr. Hanna, I don't
2 know why we are necessarily getting into difficulties
3 here. This witness has been qualified as a forester
4 essentially. In fact, he is a unit forester employed
5 by the Ministry of the Environment.

6 DR. EULER: Whoa, Natural Resources.

7 MR. HYNARD: Natural Resources.

8 THE CHAIRMAN: Sorry, Ministry of Natural
9 Resources.

10 His testimony and his evidence relates to
11 his expertise in the area of forestry and he has been
12 specifically asked to participate on this panel to
13 present evidence dealing with silvicultural practices
14 and, in this case, in relation to harvest activities.
15 That is the purpose, as he has stated just a few
16 moments ago, of his appearance here.

17 Now, there are a great number of
18 witnesses testifying on behalf of the proponent, all of
19 which collectively at the end of the case will be
20 determined by this Board as to whether or not they have
21 met their obligations under the legislation to discuss
22 inadequate terms, alternatives to the undertaking,
23 alternative methods of carrying it out, alternatives to
24 the undertaking itself, the various impacts, et cetera.

25 Now, beyond that I think that it would be

1 more relevant to your cross-examination and to the
2 deliberations of the Board if you would question this
3 witness on his evidence and what he was called --
4 sorry, the evidence which he has given in direct
5 testimony.

6 He has been on the stand for several days
7 and he, as part of this panel, has given a certain
8 amount of evidence, and really the purpose of
9 cross-examination is to question him on the evidence
10 that he has given.

11 Now, it may not -- in cross-examination
12 it goes a bit broader than that. You may deal with
13 topics which were raised in direct evidence and sort of
14 expand upon them in cross-examination, if you so wish.
15 But that is, as we see it, what this particular witness
16 is providing for the Board.

17 And, you know, I don't know where we are
18 going in sort of a line of questioning as to this
19 witness' understanding of what constitutes the
20 environmental assessment and what constitutes the
21 differences between an individual EA and a Class EA and
22 it'd just not that helpful I don't think at this point.

23 MR. HANNA: Well, I appreciate the
24 Board's comments, sir. I would like to refer back to
25 the transcripts and Mr. Freidin's opening address with

1 respect to this panel.

2 Perhaps I can just read it to you. I am
3 reading from page 12930, and starting at line 7 and --

4 MS. BLASTORAH: Which volume is that?

5 MR. HANNA: I'm sorry, I'm sorry, it's
6 Volume 77. And I believe the -- actually I think I
7 will start at the top of the page on line 1, it says:

8 "And the last item..."

9 This is Mr. Freidin speaking:

10 "And the last item, Mr. Chairman, is that
11 in a number of situations there should be
12 distinction made between alternative
13 methods -- or excuse me, alternate
14 methods of carrying out a particular
15 timber management activity, in this case,
16 harvest and different methods of carrying
17 out timber management activities.

18 THE CHAIRMAN: By that you mean...?

19 MR. FREIDIN: You will hear there are
20 different methods of harvesting,
21 different silvicultural harvest
22 situations, but in some situations those
23 different silvicultural harvest systems
24 are not alternate ways of harvesting. In
25 some cases, one or two of those systems

1 would not be appropriate at all.

2 MR. CHAIRMAN: And by alternate methods,
3 do you also mean methods which can be
4 substituted for each other?"

5 Now, my understanding - maybe I didn't
6 understand that exchange - was that Mr. Freidin was
7 saying that this panel is bringing forward evidence
8 that I understood was complying with Section
9 5(3)(b)(ii) of the Act which says:

10 "The alternative methods of carrying out
11 the undertaking."

12 Now, perhaps I have misunderstood that
13 and my whole line of questioning, therefore, is
14 misdirected. But I understood that Mr. Hynard's
15 evidence was speaking to alternative methods.

16 Now, if I am incorrect, I would be happy
17 to hear Mr. Freidin's submission on it.

18 MR. FREIDIN: In giving evidence on
19 alternative methods, he is talking about three
20 different silvicultural harvest systems. I suggest
21 that his evidence has been that you just can't use any
22 one of the three in every situation. In some cases one
23 of them would be totally inappropriate and, therefore,
24 in that particular situation it wouldn't be an
25 alternate or alternative method that could be used.

1 It is as simple as that.

2 MR. HANNA: So it's fair for me then to
3 ask this witness with respect to alternative methods
4 and, in that context, the Environmental Assessment Act
5 and the evidence being brought before the Board.

6 MR. FREIDIN: You can ask him about
7 alternative methods, in my respectful submission, as to
8 why one would be an alternative in one situation and
9 not another, that is his evidence,

10 But to carry it beyond that and get into
11 a discussion of Environmental Assessment Act, whether
12 he is complying with the requirement of the
13 Environmental Assessment Act in either his evidence
14 in-chief or in answer to your questions -- or to
15 questions of Mr. Hanna, is not an appropriate line of
16 questioning.

17 MR. HANNA: Fine. I shall take that
18 direction, sir. I just wanted to give you an
19 appreciation of where I was coming from with this
20 witness and that is where I am coming from in my
21 cross-examination.

22 THE CHAIRMAN: Okay. Let's proceed with
23 some questions of the witness and then maybe we will
24 ascertain whether they are appropriate questions or
25 not.

1 MR. HANNA: All right. I will do my
2 best, sir.

3 Q. All right. Mr. Hynard, I am trying
4 to look at your evidence from the perspective of the
5 Board as best I can, and it seems to me that your
6 evidence, as you have heard our discussion, is
7 basically dealing with alternative methods with respect
8 to harvesting as defined in the environmental
9 assessment?

10 MR. HYNARD: A. Yes, I understand so.

11 Q. Now, I want to make it clear. I want
12 to make sure that the alternative methods that you have
13 brought forward is the complete list of alternative
14 methods that this Board is being asked to give approval
15 of?

16 THE CHAIRMAN: Of silvicultural harvest.

17 MR. HANNA: I am sorry, I stand
18 corrected, yes, of silvicultural harvest methods.

19 Q. There will be other methods with
20 respect to renewal, site tending, maintenance, et
21 cetera.

22 MR. HYNARD: A. Yes, I believe that is a
23 complete list. On occasion there may be combinations
24 of two used in any one operating block. I know I do
25 that myself sometimes. I believe this is the complete

1 list, yes.

2 Q. Okay. I will try to come back to why
3 I asked you the question about the Class EA and the
4 individual EA. It was in no way to test your knowledge
5 of the EA or whatever, it was just to make sure that we
6 were both talking the same terms.

7 In my understanding, when you come
8 forward with an individual EA you should come forward
9 with alternative methods - Mr. Freidin can interject if
10 he will - but you come forward with alternatate
11 methods -- alternative methods and you come up and say:
12 Look, these are the alternative methods.

13 And I say: I've evaluated those
14 alternative methods and this is my preferred method
15 after having given full consideration to all the other
16 alternatives available to me.

17 MR. HYNARD: A. Yes, and I believe that
18 evidence did come forward. I described all those
19 various silvicultural harvest systems and the
20 conditions under which they would be appropriate and
21 why one particular system would be a preferred choice
22 under one set of circumstances. I believe that was
23 there in the evidence.

24 Q. Okay, good. I just want -- as I say,
25 I am trying to here just so you and I can talk and get

1 somewhere in this discussion.

2 Now, if this were an individual EA, my
3 understanding of what would happen is you would come
4 forward with these alternative methods and you would
5 evaluate each one, okay, the Board would hear evidence,
6 and I will give you an example --

7 THE REPORTER: I'm sorry, Mr. Hanna,
8 you are going to have to slow down.

9 MR. HANNA: I'm sorry. I believe you
10 told me and --

11 THE REPORTER: Can I read back please
12 from where you left off?

13 "...and I'll give you an example..."

14 MR. HANNA: Q. I'll give you a specific
15 concrete example that we can speak of. I don't know,
16 but it would probably be better to look over that way,
17 and I could see the court reporters, but I'll try to
18 slow down, as best I can.

19 THE CHAIRMAN: Mr. Hanna, when you are
20 doing it, the Board is trying to give you as much
21 latitude as possible, but we have to be careful that
22 you are not presenting the evidence yourself.

23 We are really engaged in what we call a
24 cross-examination of a witness who has given evidence
25 previously, and you will have the opportunity at a

1 future point in the case, and you may well be the
2 expert witness yourself that will be testifying in
3 terms of presenting evidence to the Board.

4 And when you are putting forth a
5 hypothetical example, it is getting very close to the
6 line of you giving the evidence as opposed to putting a
7 question to the witness in the hypothetical.

8 MR. HANNA: I understand both what you
9 are bringing forward and I realize there is a fine line
10 there, sir, and I will try to not step over it.

11 THE CHAIRMAN: Fine. And so I feel that
12 it will be more productive to everybody if you frame
13 specific questions to this witness and if he can
14 provide the answer, he will answer yes or no or expand
15 upon it.

16 If it turns out that you are not
17 necessarily eliciting the answer that you want, you may
18 find that the way you may have to approach it is to put
19 it in evidence by yourself or your client through other
20 expert witnesses during your portion of the case and
21 then, of course, you will be questioned in
22 cross-examination on the evidence you are giving.

23 It is very difficult for the Board in
24 these proceedings to, in fairness to the Ministry who
25 is being examined on Panel 10, to not have an

1 opportunity to question you if you are putting in
2 evidence. I mean, we can't sort of blur the lines.

3 MR. HANNA: I appreciate fully what you
4 are saying and, I suppose if I committed myself to
5 being an expert at this point I trust, given great
6 latitude, but I am not suggesting that I will do that,
7 sir, and I can't guarantee that I will be coming forth
8 as an expert and I appreciate your direction and I will
9 do my best to do that.

10 THE CHAIRMAN: Okay.

11 MR. HANNA: Q. Mr. Hynard, let's have a
12 hypothetical here. The hypothetical is: If we can
13 imagine for a moment that this hearing, these three
14 years or whatever the hearing is going to take, is
15 dealing one timber management plan. We've got one
16 timber management plan here for a specific management
17 unit and you are bringing forward evidence, as you are
18 at the present time.

19 What I am trying to understand is how
20 this Board makes the determination of what is
21 acceptable and unacceptable alternative methods with
22 respect to silvicultural harvest systems, given your
23 evidence?

24 MR. FREIDIN: I think perhaps that's a
25 legal question too.

1 THE CHAIRMAN: Well, it certainly goes to
2 Section 12(2) of the Act as to what we would find
3 acceptable in terms of the evidence presented in order
4 to rule that the EA was acceptable and, if acceptable,
5 whether or not that plan should proceed. That was the
6 undertaking before us.

7 MR. HANNA: I wasn't asking the witness
8 whether the Board would rule on the acceptability of
9 the EA, I am trying to understand his evidence in the
10 context of: If this was an individual environmental
11 assessment.

12 THE CHAIRMAN: Oh. Would your question
13 be simply: If this were an individual plan on a
14 management unit and you were presenting evidence on the
15 silvicultural harvest methods, would you be presenting
16 to the Board different alternatives than you have
17 already given in terms of this particular application
18 before us at this time?

19 MR. HYNARD: I understand the question.
20 I think the answer -- not having any familiarity with
21 individual assessment and not having taken any time to
22 think about it or receive any direction from true
23 experts, my answer would be I don't think it would be
24 any different.

25 There would still be a whole number of

1 harvest operations planned and they would occur under
2 different forest and stand and site conditions and they
3 would be with different species having different
4 silvical characteristics. Perhaps there would be a
5 common condition of economics and perhaps not too.

6 THE CHAIRMAN: But if you were presenting
7 to the Board a range of possibilities for Board to
8 consider, would the range be different from what you
9 have presented to the Board in terms of your evidence?

10 MR. HYNARD: I can't see that it would
11 be. I think the same factors would come forward as I
12 have presented to you.

13 THE CHAIRMAN: And if you were dealing
14 with a specific unit after presenting the range, would
15 you be likely to say: And for this particular unit, we
16 would recommend, or the preferred silvicultural harvest
17 method would be such and such?

18 MR. HYNARD: Exactly.

19 THE CHAIRMAN: It might be a combination
20 of more than one method. Would that be the approach
21 that you would use?

22 MR. HYNARD: I believe I would.

23 MR. HANNA: Mr. Chairman, that's exactly
24 where I was going. I appreciate your help on that.

25 Q. That's exactly what I want to come

1 to, Mr. Hynard, that my experience with this Board has
2 been that a proponent comes forward with alternative
3 methods, a full range of alternative methods and they
4 are asked to choose among -- a preferred one.

5 MR. FREIDIN: We are back to it again,
6 Mr. Chairman. I think he's suggesting that that would
7 be a requirement of an individual environmental
8 assessment in this particular type of undertaking.

9 It is just -- I think I know where he's
10 going, but the questions I think are quite problematic.

11 THE CHAIRMAN: Well, they may be and the
12 value to the Board in this particular application may
13 be somewhat limited, but let's proceed to another
14 question, Mr. Hanna, and see if we can get by another
15 question without any difficulty.

16 MR. HANNA: This is, I must admit, hard
17 slugging, sir. I apologize for that.

18 Q. Okay. Now, given that --

19 MR. HYNARD: A. There would be one
20 difference - I just thought of it - and that difference
21 would be that in such a hypothetical case on the Minden
22 unit there would be a conclusion as to what the
23 preferred choice was; whereas in this case, we say that
24 the preferred choice will appear in the timber
25 management plan for each of those units.

1 Q. Mr. Hynard, you have summarized my
2 view of the Class EA and I appreciate that. That's in
3 fact what I was trying to lead you to in terms of
4 talking about an individual Class EA.

5 This Board is not being asked to say:
6 This is the preferred method; but this is how the
7 preferred method is decided upon.

8 MR. FREIDIN: Well, let's leave that to
9 the Board, please

10 MR. HANNA: Obviously, I'm not certainly
11 trying -- in any way trying to attempt the Board as to
12 how to make their decision.

13 Q. Okay. Now, given what you just said
14 it raises the issue: How do you choose among
15 alternative methods. In your evidence - I would like
16 to refer to page, I believe it's 13095, which is
17 Volume -- I believe Volume 78.

18 I believe you have discussed some of this
19 with Ms. Swenarchuk in her cross-examination, and I
20 have just a few other issues I would like to follow up
21 there in that respect.

22 I will just read -- I am going to read
23 down to line 21. Mr. Freidin asked you:

24 "Q. Okay. Another matter I would like
25 for you to comment on, Mr. Hynard, is

1 about what I would describe here as a
2 rulebook for silvicultural prescriptions.
3 Now, when I use the term rulebook for
4 silvicultural prescriptions, what does it
5 mean to you?

6 A. Well, a rulebook in that case would
7 be a set of written silvicultural
8 prescriptions which would be implemented
9 as written."

10 Do you recall that?

11 MR. HYNARD: A. Yes, I do.

12 Q. Now, what I want to understand is, in
13 the evidence that you brought forward, is it your view
14 that the matter of alternative methods, in this case
15 silvicultural harvest -- we are limiting ourself to the
16 silvicultural harvest system - is it your view that the
17 choice of silvicultural harvest prescriptions should be
18 left to the discretion of the unit forester, or this
19 will be an MNR company forester?

20 A. Yes, it is and his choice of the
21 harvest -- silvicultural harvest system would appear in
22 the timber management harvest plan. That's where it
23 would appear.

24 Q. Is it not fair to say, though, that
25 the timber -- that the silvicultural groundrules, I

1 believe that's what you are referring to in the timber
2 management plan, that there is the possibility of
3 multiple alternative methods?

4 A. There may be options, yes. The
5 reason that there may be options is that there may be
6 other factors which will not be apparent until - I'm
7 thinking more of silvicultural treatment - may not be
8 more apparent until the harvest takes place.

9 There may be reasons for options and when
10 you put those options in the management plan, it is a
11 fact that any one of those options would be acceptable,
12 it has gone through the planning process.

13 Q. Yes, I appreciate that. Now, I
14 believe you continued on in this discussion with Mr.
15 Freidin on to page 13096 and Mr. Freidin -- Mr.
16 Chairman, is it worthwhile to read this into the
17 transcript seeing that the Board doesn't have the -- is
18 that useful for the Board or is it better simply to
19 refer to that?

20 THE CHAIRMAN: Well, it depends on the
21 context of your question. I mean, you can in some
22 cases summarize what's said without reading the whole
23 thing in, or if the witness needs guidance, then you
24 can refer to the exact words.

25 MR. HANNA: Okay.

1 THE CHAIRMAN: I think what we want to
2 look at is not rereading into the record the whole
3 record twice. It is on the record once and we will
4 have a certain familiarity through memory as to the
5 gist of the question. We may not remember the exact
6 words, but we should be able to remember the gist of
7 the question.

8 MR. HANNA: All right. Well, if Board
9 wants to refer back, I've given the reference. What I
10 am particularly interested in is the latter part of
11 that. It says:

12 "If someone were to hand me a rulebook
13 and say follow it, I would find other
14 work, no doubt about it."

15 Q. Now, I appreciate your comment there
16 and in fact, is it not fair to say, it's one of the
17 hazards of working in large bureaucracies that you have
18 too many rules and you have to work with them.

19 MR. HYNARD: A. Well, it's a potential
20 hazard. I am happy to say that my employer, the
21 Ministry of Natural Resources, does take a flexible
22 view on that.

23 And the evidence has been clear from all
24 of the panel here and from previous testimony with
25 regard to guidelines and their mandatory nature that we

1 are not being handed rulebooks that are to be
2 implemented as written.

3 We get criticized for not having
4 rulebooks that aren't implemented as written. I think
5 that's safe to say, but I am happy to say that we
6 aren't. It's a potential hazard, it has happened from
7 time to time, I am sure it happens in large
8 organizations elsewhere too.

9 Q. Okay. But this is a rule-making
10 procedure that we are faced with at the present time
11 and I think the question is very much...

12 THE CHAIRMAN: Well, I am not sure that's
13 a fair characterization of what this is either. We
14 have a specific application, an undertaking before us
15 for approval, not necessarily that we are going to come
16 out with a rulebook as part of the decision.

17 MR. HANNA: I was speaking more in terms
18 of conditions, sir.

19 THE CHAIRMAN: Well, we will certainly be
20 considering conditions, I can assure you of that.
21 Okay, go on.

22 MR. HANNA: No, perhaps it's magic, sir.
23 I just look at the terms and conditions as rules under
24 which the application would be approved, if approved.

25 MR. FREIDIN: I am just thinking. Having

1 regard to how this witness uses the word rulebook and I
2 think that if you were going to use the word rule in a
3 different context, then you should make sure the
4 witnesses understand that when you ask the question.

5 MR. HANNA: It's my intent to clarify
6 what he means with respect to rulebook, sir. I wasn't
7 trying to lead the witness in any respect in that
8 question. Perhaps it was a bad use of words.

9 THE CHAIRMAN: Okay. Ask your question
10 of the witness.

11 MR. HANNA: Q. Okay. It's simply this,
12 Mr. Hynard. You would agree that it is a fine line,
13 you can have too many rules and not enough rules?

14 MR. HYNARD: A. Okay. I will agree with
15 that.

16 Q. I want to make sure that you do
17 agree to that.

18 A. Well then, let me qualify it. I
19 would certainly agree there can be too many rules and I
20 would also agree that there are cases where there is
21 perhaps not enough direction. I am talking in a
22 general philosophical sense, I am not talking about
23 anything specific.

24 Q. Okay. That's fine. That is really
25 quite a bit of a motherhood question, to be quite

1 honest with you, we would all agree to that.

2 The reason I asked that is later in your
3 evidence - I am looking at page 13099 - I believe you
4 talk about protection forest. Do you recall that?

5 A. Yes, I do.

6 Q. Okay. And I believe that you said
7 that a protection forest corresponded to a Site Class 4
8 as defined by Mr. Plonski in his yield tables; is that
9 correct?

10 A. That's correct.

11 Q. Would you not agree that's a rule in
12 a sense - I am using the words differently - I want to
13 get the words -- make sure that we are using the words
14 the same.

15 A. Oh, it's certainly not a rule in the
16 sense that I described it. I said it was a rulebook
17 and rules would be a set of silvicultural prescriptions
18 to be implemented as written.

19 Plonski's yield tables are a set of yield
20 tables in which he has harmonized curves and height
21 over age and divided them into four classes. I
22 wouldn't call that a rule, though.

23 Q. No, I appreciate what you are saying.
24 What I was asking though is, is it not a general rule
25 that Site Class 4 stands are deemed protection forest?

1 A. That's a definition.

2 Q. And is that definition not laid out
3 for some reason, some direction?

4 A. Well, the purpose, as I understand
5 Plonski's yield tables and the division into site
6 class, is to reflect the productivity of various pieces
7 of land based on their characteristics as measured by
8 height over age.

9 Now, some of those elements that are
10 contained within the yield tables are, for example,
11 volume and mean annual increment and current annual
12 increment. Plonski's tables also include the average
13 height, average diameter for a species at a given age.
14 That's the purpose.

15 Q. I believe that evidence has been
16 given to the Board and the Board is familiar with that
17 as I am.

18 That isn't my question. My question is:
19 You have called it a definition. I am not still sure
20 what the rule of definition is, but let's use the term
21 definition for the time being. Let's say we have a
22 definition for protection forest.

23 Now, why have we developed that
24 definition?

25 A. Well, it's a name for that class of

1 land -- put land into different categories, all the
2 language --

3 Q. What's your definition of Class 3?

4 A. Class 3 is Class 3.

5 Q. Why is Class 4 not Class 4?

6 A. It is, it's Class 4.

7 Q. But Class 4 is also protection
8 forest.

9 THE CHAIRMAN: Hold on, Mr. Hanna. I
10 think what you are asking this witness to confirm is,
11 the fact that a table which defines four site classes
12 contain within it any prohibitions on how one might
13 approach those site classes. You know, if you look at
14 the Plonski site class categories, do they in
15 themselves give the Ministry direction as to how you
16 might approach those site classes with respect to
17 harvesting or building access roads or doing any of the
18 other activities.

19 MR. HYNARD: Mr. Chairman, they don't in
20 any way. Those determinations are made in the timber
21 management plan.

22 THE CHAIRMAN: And so they are not a rule
23 in the sense that you are using them, because you have
24 a Site Class 4 I think you are trying to imply,
25 therefore, Site Class 4 has to be treated in a certain

1 manner vis-a-vis harvesting or something else, and
2 that's a rule.

3 Well, with respect, Mr. Hanna, I don't
4 think you are going to find that kind of thing within
5 the tables themselves. You would have to go beyond the
6 table and, as Mr. Hynard has indicated, through the
7 planning process to ascertain how those various
8 categories are then approached.

9 MR. HANNA: Mr. Chairman, I appreciate
10 that. I was not trying to imply anything, I mean, I am
11 just trying to understand the evidence that's been
12 presented and that was the intent of that question.

13 Q. What I am still at loss, if I take
14 what you just said, is why do we need the term
15 protection forest. That's what I am trying to clarify.

16 MR. HYNARD: A. If your question is:
17 What is the origin of the name protection forest, why
18 was the word protection used, I don't know the answer
19 to that question.

20 Q. Fine. Thank you.

21 A. I really don't know. When I came on
22 to the Ministry in 1973 that was the name and that was
23 the definition.

24 Q. So from your point of view as an
25 operational person, if Site Class 4 and protection

1 forest is the same, it's just the word doesn't do
2 anything, have any meaning?

3 A. Yes, that's right.

4 Q. All right. Maybe this is my problem,
5 semantics. The reason I'm going through these
6 questions is so that I make sure I understand what you
7 mean by rule. It is an important point whether you
8 call terms and conditions rules or otherwise. That
9 perhaps is my answer.

10 A. And I am not trying to be difficult.
11 The reason that I am distinguishing between different
12 words and their meaning is they can have some import on
13 the hearings themselves. We must be pretty clear.

14 Q. I am very clear of that and I
15 appreciate that. I would like to maybe give another
16 example here. Again, I want to be very clear on this
17 issue of rules and I would like to refer you to the
18 transcript again, I believe it's Volume 77, it's page
19 13009.

20 THE CHAIRMAN: 13... Sorry?

21 MR. HANNA: The numbers are getting so
22 large, sir, I can't keep track of them anywhere. It's
23 13009, and I am looking there at line 16 to 20.

24 You see they are referring there to the
25 return time and the fact that there is no set rule

1 governing return time?

2 MR. HYNARD: A. Yes, I recall that
3 evidence.

4 Q. Now, as I interpret this - and again
5 this may be my problem in terms of the way I use the
6 word rule - it seems to me that you said: There is no
7 return rule -- or there is no rule on return time, and
8 the way I see it -- I see that you continue on in your
9 evidence and set out a number of rules, if you will,
10 directions. And I just want to make sure I am
11 interpreting your evidence correctly.

12 And I believe you said the return time
13 depends on the purpose of the block and it depends on
14 the result. So those are two criteria, if you will,
15 that are used to decide on return cut. Is that fair?

16 A. Yes, those are criteria.

17 Q. Okay. And then we continue on and
18 you say, first examples was if the clearcut was to aid
19 in regeneration, which is the purpose, then the return
20 cut occurs as soon as the first cut is regenerated?

21 A. Yes.

22 Q. So I see that as a rule. In other
23 words, once the site is regenerated, there I use that
24 that as my rule when I go back and do my return cut.

25 THE CHAIRMAN: It may be the criteria for

1 returning -- you have established a criteria that when
2 the vegetation has grown and revegetated to a certain
3 point in time, you then return and cut it.

4 MR. HYNARD: Exactly. That's a criteria.
5 There may be other criteria. For example --

6 THE CHAIRMAN: You're not suggesting, Mr.
7 Hynard, that you have to return--

8 MR. HYNARD: Exactly.

9 THE CHAIRMAN: --at a time particular
10 time to cut?

11 MR. HYNARD: That's right. We don't have
12 to start the skidders up on that day that the
13 regeneration has appeared. That's a criteria. It may
14 now occur, but there are other criteria too.

15 MR. HANNA: Mr. Chairman, I apologize. I
16 am trying to deal with semantics here and that's the
17 reason for these questions and I am concerned about
18 this concept of guidelines, rules and now we have got
19 criteria and definitions. I want to see if we can use
20 a common terminology here when we talk.

21 q. It seems to me that what you said
22 here was that the rate at which you do your return cut
23 depends on the purpose?

24 MR. HYNARD: A. Exactly.

25 Q. So that's, if you will, a rule or we

1 decided that's a criteria.

2 MR. HANNA: I'm sorry, Mr. Chairman, I
3 don't seem to be -- can you give me some direction.

4 THE CHAIRMAN: Well, I don't know where
5 to go, frankly, in this particular question.

6 When you refer, Mr. Hynard, to the word
7 rules in that context, in the context of those lines in
8 the volume -- that volume of the transcript at page
9 13009, what did you mean specifically?

10 MR. HYNARD: The reference to the
11 rulebook was in 13095 I believe.

12 THE CHAIRMAN: Sorry.

13 MR. HYNARD: What I meant there was a set
14 of rules or a rulebook would be a set of written
15 silvicultural prescriptions, not flexible guidelines as
16 we have discussed them, but a set of written
17 prescriptions that you would follow.

18 THE CHAIRMAN: Regardless of any other
19 circumstances.

20 MR. HYNARD: Regardless of the other
21 circumstances and I think I've pointed out in my
22 evidence that that would result in ludicrous happenings
23 from time to time. That's what I meant by rules.

24 THE CHAIRMAN: When the term is used with
25 reference to what Mr. Hanna has just alluded to...

1 MR. HYNARD: Yes. I see here on page
2 13009, and it was in response to this question that I
3 am sure the Board has and many people have, if you are
4 doing modified cutting of one form or another, uniform,
5 shelterwood, strip cutting, block cutting, when are you
6 coming back for the other set of blocks.

7 THE CHAIRMAN: When you use a colloquial
8 term as a rule you might come back at a certain point
9 in time, but that wasn't then?

10 MR. HYNARD: No, I never said as a rule.

11 THE CHAIRMAN: I haven't got the
12 transcript.

13 MR. HANNA: If you will, I will give you
14 the answer. The answer to that one is: There is no
15 set rule governing the term basically.

16 THE CHAIRMAN: Okay. There is no set
17 rule.

18 MR. HYNARD: That's right. There is no
19 set rule governing the return time and then I went on
20 to say that there are criteria - I hate use that term -
21 but it depends on the purpose of the cut.

22 For example, if that was a strip clearcut
23 and the purpose was to secure regeneration from that
24 natural seed source in the adjacent uncut strip, once
25 we have a regeneration its purpose has been fulfilled,

1 the criterion has been met.

2 It is now possible to make that return
3 cut provided that any other criteria that might exist
4 have also been met. And I gave other examples too,
5 including moose habitat.

6 THE CHAIRMAN: But those would not be
7 rules in the context of when certain conditions exist
8 something must be done?

9 MR. HYNARD: Exactly.

10 MR. HANNA: Q. No, by the same token if
11 you are suggesting that, you would not come back and do
12 a return cut until at least that condition was met.

13 MR. HYNARD: A. You are right, I
14 suggested that. I am stating it. We would not return
15 that until that criterion had been met.

16 Q. That's the way I was interpreting the
17 rule, not that you have to come back and do it this
18 way, but that you would not do that activity before
19 that time?

20 A. Yes. And that is a silvicultural
21 prescription and that silvicultural prescription would
22 appear in the silvicultural groundrules.

23 If there was a specification on uniform
24 shelterwood and if return cutting was being
25 contemplated during the same planning period, then the

1 criteria affecting that return cut would be stated in
2 that silvicultural prescription.

3 Q. Perhaps Mr. Hynard, I was going to
4 deal with this a little later on. I was just going
5 to --

6 MR. HANNA: Mr. Chairman, I don't know
7 what time you want to take a break. I was just going
8 to go into the silvicultural groundrules for the Red
9 Lake Crown Management Unit. I have asked Mr. Hynard to
10 look at two pages.

11 I'm not going to -- I realize it's
12 going to be dealt with in Panel 15, I have no intention
13 of going through that document at this time. It's just
14 that that is an example of the silvicultural
15 groundlines that I was going to bring forward to this
16 witness.

17 Now, if you want, I can deal with that
18 now, or I can simply...

19 THE CHAIRMAN: How long do you figure
20 this line of questioning will take on that one topic?

21 MR. HANNA: It will probably take 20
22 minutes.

23 MR. FREIDIN: Mr. Chairman -- well, Mr.
24 Hanna, I think one question.

25 Do you want to put, or have Mr. Hynard

1 actually look at a specific silvicultural groundrule of
2 the Red Lake Timber Management Plan?

3 MR. HANNA: I believe I spoke to Ms.
4 Murphy to ask her to provide Mr. Hynard with the pages
5 I was going to refer to.

6 MR. FREIDIN: No problem. Just in case
7 you are, it would be helpful for everyone to have it.

8 MR. HANNA: I have it as an exhibit which
9 I intended to produce.

10 MR. FREIDIN: Oh, all right.

11 THE CHAIRMAN: And you have already seen
12 this two-page document?

13 MR. HYNARD: Yes, the two pages I have
14 seen.

15 THE CHAIRMAN: Okay. I think we should
16 press on before we break for lunch. I have this as
17 Exhibit No. 512.

18 Mr. Hanna, is this going in as one
19 exhibit or in two parts or...

20 MR. HANNA: Unfortunately I wasn't
21 responsible for the stapling. So, I was wanting it as
22 one exhibit, if I could, please.

23 THE CHAIRMAN: All right. Exhibit 512
24 will include some paragraphs relating to timber
25 management objectives and also a table, Table 4.11.2,

1 for the Red Lake Crown Management Unit.

2 ---EXHIBIT NO. 512: Two-page document of paragraphs
3 relating to timber management
4 objectives and also Table 4.11.2
for the Red Lake Crown Management
Unit.

5 MR. HANNA: Q. Now, just while we are on
6 this issue with respect to the return cut, if we could
7 look at Table 4.11.2, it is indicated at page 54. Have
8 you got that page, Mr. Hynard?

9 MR. HYNARD: A. Yes, I am open to 54.

10 Q. Okay. Perhaps it's easier for you to
11 explain this table to me in terms of how to interpret
12 the information here?

13 Can you just go through each of the
14 columns and just tell us what - and not go into
15 detailed descriptions, because I am sure that is what
16 we are going to hear in Panel 15 - but just so that we
17 can at least talk about this just in a general way.

18 A. Sure. Table 4.11.2 is a set of
19 silvicultural groundrules for normal operations. That
20 means that we are not dealing within an area of
21 concern, and at the top of the page it reads: "For the
22 Red Lake Crown Management Unit", and it is in effect --
23 these groundrules are in effect for a five-year term.
24 And those dates are stated there.

25 There are a series of columns across the

1 top of the table, the first one of which is FRI-WG,
2 that means the working group according to the FRI.

3 The next column is a site description and
4 that column is normally used to describe the site
5 conditions for which that particular prescription is
6 being provided.

7 In some groundrules it can be very broad
8 site prescriptions because the same prescription is
9 being applied to very broad conditions and, in some
10 groundrules, they can be very specific for the same
11 reason.

12 The next column reads PROP-WG/FU. That
13 stands for the proposed working group or forest unit.
14 A forest unit can be a sub-category of a working group.
15 It may be broken down further for management purposes.

16 The next column is the silvicultural
17 system and it refers to the silvicultural harvest
18 system.

19 The next column is method of harvest and
20 it refers to the logging method.

21 The next column is the renewal treatment
22 description, including both site preparation and
23 regeneration. That column is intended for the forester
24 to give his prescription for renewal.

25 The next series of columns, three in all,

1 set the stocking standards; that is, the minimum and
2 desirable stocking standards to be expected from that
3 treatment on that site type.

4 The last column is prescription for any
5 tending operations that may be proposed.

6 Q. Thank you. Now, I would like to look
7 at the silvicultural system. Is that the same as what
8 we are calling here the silvicultural harvest system?

9 A. Yes, it is.

10 Q. And is a strip cut a type of
11 silvicultural harvest system that requires a return
12 cut?

13 A. Yes, it does. I presume that he has
14 shortened that from strip clearcut.

15 Q. Okay. Now, I realize we haven't
16 introduced the whole exhibit into evidence, and that
17 may be a problem here, but I don't see on this table
18 anywhere an indication of when the return cut should
19 occur?

20 A. No, I see no indication either. I
21 presume in this case that he is not proposing to
22 conduct a return cut during this five-year term. That
23 could be confirmed on the allocation maps in the
24 supplementary documentation.

25 Q. Okay. I guess -- perhaps then could

1 you tell me where or how on this table I would find, if
2 you will, a stand?

3 Maybe it's -- maybe you can tell me where
4 I can find it on this table, I am really lost here,
5 whether it would be under the working group or where,
6 that there would be a stand prescription or a
7 silvicultural groundrule in the next five-year term
8 that would apply to those stands that are path cut and
9 strip cut?

10 A. In the subsequent five-year period?

11 Q. Well, unfortunately, I didn't
12 anticipate this question, I thought it was going to be
13 fairly straightforward.

14 A. Oh, nothing is simple anymore.

15 Q. Yes, I understand, Mr. Hynard, but
16 you have said that the reason we don't see the return
17 cut specified here is because you are expecting that
18 will be in the next five-year term; right?

19 A. No, I said I presume that it does not
20 appear here because he is not proposing to conduct a
21 return cut during this five-year term.

22 Q. And I am asking you what would be --
23 what would this table look like if it was -- this same
24 stand five years hence or ten years hence or --

25 THE CHAIRMAN: What would this table look

1 like if it did contain reference to a return cut?
2 Where would it go, what column -- where would you find
3 it?

4 MR. HYNARD: If it was referring to a
5 return cut it would appear on that same table, 4.11.2,
6 Silvicultural Groundrules, and the maps showing where
7 the allocation was, where the stands that were being
8 cut in that fashion in the supplementary documentation
9 would indicate which they were.

10 If the previous cut strips had
11 regenerated satisfactorily, then -- and the plan -- the
12 forester writing the plan was aware of that, he may not
13 set that criterion down in the prescription, the
14 criterion has already been met.

15 If he was uncertain whether or not those
16 areas had yet regenerated but he anticipated that they
17 would have regenerated during the term of the plan, and
18 that was a criterion upon which to base the return cut,
19 I would expect it to appear in that column, renewal
20 treatment description, and the criterion would say when
21 the adjacent cut-over strips have met minimum stocking
22 standards. That is what I would expect.

23 However, you can ask Hartley Multimaki
24 yourself when he is here in Panel 15.

25 MR. HANNA: Q. I understand that, sir,

1 and certainly that is what I am going to do.

2 MR. HYNARD: A. And really I always
3 recommend that people who ask questions about
4 operations on any one management unit deal directly
5 with the forester from that management unit, they are
6 always more helpful than some other forester.

7 Q. I appreciate the difficulty you have
8 in responding to someone else's plan, and I just want
9 to conclude this because we are going to Panel 15 to
10 prove this and we will ask Mr. Multimaki at that time
11 on this.

12 If this was -- I am not sure what your
13 management unit's name is, but in Minden your Crown
14 management unit then, if I was to look at your plan
15 under the title Renewal Treatment Description, I would
16 see -- wherever you had done a selection or shelterwood
17 cut, I would see specification in terms of the renewal
18 or the return cut with respect to each of the five
19 reasons upon which you do modified cut as laid out in
20 your evidence?

21 A. I can't respond with regard to that
22 particular example because I don't do strip
23 clearcutting in black spruce in Minden.

24 However, if you look at my management
25 plan on any type of prescription that sets a criterion

1 down for return cut, you will find that in the plan -
2 and you are welcome to cross-examine -- I prefer you
3 cross-examine me on my own plan rather than Hartley's.

4 Q. So what you are saying is leave it
5 for Mr. Multimaki and he will be able to tell us the
6 criteria that he is using in terms of the return cut
7 and where that's specified in the plan.

8 A. Yes. And on my own plan, if there is
9 such a criterion that must be met in order to effect a
10 return cut, it would appear.

11 Q. Okay.

12 A. I have got to mention in case you go
13 looking at my plan, my plan was written under the
14 previous manual and the tables don't correspond
15 exactly.

16 Q. Well, that is fine. It's more the
17 fact that it is there, what form it is in has no
18 substance to me at this point.

19 You mentioned that there was no strip
20 cuts in your forest management unit, that is a generic
21 term I can apply to everything.

22 A. Strip clearcuts is a word we use.

23 Q. Strip clearcuts.

24 A. Yes, I have none.

25 Q. What is the proportion of the area of

1 the undertaking in the boreal forest and the proportion
2 in the Great Lakes Forest? Plus or minus 10 per cent,
3 I'm easy, you know...

4 MR. FREIDIN: You are talking about the
5 area?

6 MR. HANNA: Yes.

7 THE CHAIRMAN: Within the area of the
8 undertaking?

9 MR. HANNA: Yes.

10 MR. HYNARD: The vast -- the great
11 majority is in the boreal forest. I can't give you a
12 percentage, but if you would like one we will find one
13 for you.

14 MR. HANNA: Q. Okay, can we move on. I
15 would like to move on now to another issue that came up
16 in your evidence-in-chief, and that had to deal with
17 the matter of documentation.

18 THE CHAIRMAN: How long is this issue
19 going to take?

20 MR. HANNA: Oh, that's right. I am
21 sorry, Mr. Chairman, this is an appropriate time I
22 think for a break.

23 THE CHAIRMAN: Lunch time. We will be
24 back at two.

25 ---Luncheon recess taken at 12:25 p.m.

1 ---Upon resuming at 2:10 p.m.

2 THE CHAIRMAN: Thank you. Be seated,
3 please. Mr. Hanna?

4 MR. HANNA: Q. Mr. Clark, I would like
5 to interrupt Mr. Hynard here for a minute, if I could,
6 and speak to you for a moment, if I could.

7 Have you read the entire Class
8 Environmental Assessment?

9 MR. CLARK: A. I believe at varying
10 times I could say that I've probably read all of it,
11 yes.

12 Q. Now, Mr. Clark, I believe you have
13 been qualified - I don't have the exact words in front
14 of me - but as resource planner; is that fair?

15 A. Oh, I think it was as--

16 Q. Shall I get the exact words, I can
17 dig it out.

18 A. --an expert in resource management,
19 IRM and conflict resolution, I think were the words
20 that were used.

21 Q. Okay. I just -- well, I will ask the
22 question, you can answer it. Do you feel able to
23 respond to some of the issues that I wanted to speak to
24 in terms of environmental assessment, environmental
25 assessment planning?

1 A. Well, I think I would really have to
2 hear the questions in order to determine that.

3 Q. Okay. The question that I had put to
4 Mr. Hynard was this issue of what constitutes a class
5 environmental assessment and Mr. Hynard quite rightly
6 said that is not my area of expertise and he wasn't --
7 he didn't feel capable of answering that. Do you feel
8 capable of answering that?

9 A. To the extent that I'm able to
10 reflect on how we interpreted it in light of the
11 evidence that we produced, I can. I'm not aware of
12 other interpretations that other individuals or groups
13 may have placed on that term.

14 Q. Okay. Before we go too far on this,
15 I don't want to waste our time here if there is other
16 witnesses that are going to be brought forward by the
17 proponent to be able to deal with this.

18 Is there another witness -- being a
19 quarterback and involved in this process, are you aware
20 of another witness that would be brought forward that
21 would be more able than yourself to respond to this
22 issue?

23 A. Not on this particular panel.

24 Q. No, I'm quite willing to -- I would
25 prefer to deal with it now, but if you say: Well, we

1 have got a witness in the future that really is our, I
2 say, our guru on environmental planning, I might hold
3 off on my question.

4 A. My advice I think would be to check
5 with our legal counsel.

6 THE CHAIRMAN: What do you mean by, what
7 is an environmental assessment?

8 MR. HANNA: I was trying to avoid putting
9 evidence in, sir, but I will try and do --

10 THE CHAIRMAN: No, no, I am not asking
11 for your opinion, I am asking what kind of an answer
12 are you trying to elicit?

13 MR. HANNA: Well, it's my understanding,
14 sir, that there is two types of environmental
15 assessment; one is an individual EA and one is a Class
16 EA, and I think each have distinct characteristics.

17 And seeing this is a class environmental
18 assessment, the first one before this Board, I'm trying
19 to make sure that we are all talking the same way of
20 what constitutes a class EA. And that's the purpose of
21 my question and that's what I would like to ensure that
22 I deal with before I go too far in my line of
23 questions.

24 If you will, sir, I will elaborate on my
25 view of what I feel a class environmental assessment

1 is, I am quite prepared to do that.

2 THE CHAIRMAN: Well, Mr. Freidin, how do
3 you want to handle this question?

4 MR. FREIDIN: Well, we do have other
5 witnesses that I think have had more involvement in
6 environmental assessments than Mr. Clark and, in
7 particular, I am thinking of Panel No. 15, but I have
8 no objection to Mr. Hanna asking questions, you know,
9 that Mr. Clark feels that he is qualified to answer and
10 can be helpful on.

11 THE CHAIRMAN: Okay. Well, let's see if
12 you can provide any assistance to Mr. Hanna.

13 What is the difference, if that is the
14 question, in your mind --

15 MR. HANNA: Well, I can -- if you want to
16 go ahead, that's fine. I have a series of questions I
17 was going to ask him.

18 THE CHAIRMAN: Okay, go ahead with your
19 own questions.

20 MR. HANNA: Q. Okay. Mr. Clark, what is
21 your view of the purpose of the class environmental
22 assessment process as opposed to individual
23 environmental assessments?

24 MR. CLARK: A. Well, I was thinking
25 about your questions this morning and thinking about

1 our particular evidence and when I think of a class
2 environmental assessment, I really harken back to the
3 words in our document, and I think the first thing that
4 comes to mind is an assessment that focuses on a common
5 set of integrated activities.

6 And in terms of timber management, those
7 are access, harvest, renewal and maintenance. So we
8 are talking about, in this sense, a common set of
9 activities.

10 The next point that I would make in terms
11 of potentially dealing with a class environmental
12 assessment would be a common set of activities and, as
13 I said, access, harvest, renewal and maintenance in our
14 case. The second would be that occur throughout a
15 fairly large geographic area and, in this particular
16 case, it's the area of the undertaking that we have
17 identified.

18 In terms of this common set of
19 interrelated activities, I think the assumption has to
20 be made that there is a reasonably predictable range of
21 effects that occur throughout a geographic area. And
22 to my way of thinking a class environmental assessment,
23 and certainly the approach we have taken, is that we
24 have identified a common consistent planning process
25 that deals with this common set of activities and

1 addresses itself to a range of predictable effects that
2 can occur throughout, in our case, the area of the
3 undertaking, but which provides sufficient flexibility
4 to deal with local conditions.

5 Now, the distinction between that
6 approach and an individual class assessment, in my
7 mind - and I won't get into the details and I have
8 never been directly involved in one - is simply that a
9 class, or at least an individual assessment I would
10 think normally addresses itself to a specific project.

11 The other point that I would emphasize in
12 terms of a class assessment is that it provides a
13 method for deciding on a preferred alternative rather
14 than an actual alternative inasmuch as we are talking
15 about a range of activities throughout a large
16 geographic area.

17 Q. Okay. Now, in your view, would it be
18 possible to submit each timber management plan prepared
19 by the Ministry in the province within the area of the
20 undertaking to an individual EA process?

21 A. I suppose it would and I guess the
22 one comment I would make is that - as I say, I haven't
23 been directly involved in an individual environmental
24 assessment - but based on what I have seen, I would
25 think that in fact the end product that we produce in

1 timber management planning is in fact very similar in
2 many regards to an individual assessment in terms of
3 the level of detail and, to some extent, the approach
4 that is taken.

5 Q. All right.

6 THE CHAIRMAN: However, you would be
7 identifying a preferred alternative?

8 MR. CLARK: That's correct.

9 THE CHAIRMAN: If it were a specific
10 plan?

11 MR. CLARK: Yes.

12 THE CHAIRMAN: And you may delineate with
13 more specificity the options that were included within
14 the preferred alternative?

15 MR. CLARK: That's correct.

16 THE CHAIRMAN: You would cover the range
17 of options and alternatives to what you were proposing,
18 but because it was project-specific, it involved a
19 definitive plan with a specific area in mind, it would
20 be more specific in that sense?

21 MR. CLARK: That's correct.

22 THE CHAIRMAN: Would that be correct?

23 MR. HANNA: Q. Mr. Clark, I want to
24 clarify here -- the words are of course what much of
25 this is about and we must use the right words. You

1 said decides on a preferred alternative.

2 Now, you are familiar with the concept of
3 alternative to and alternative methods?

4 MR. CLARK: A. In terms of the
5 environmental assessment?

6 Q. Correct.

7 A. Generally, yes.

8 Q. Okay. Now, would you agree with me
9 that one of the advantages of a Class EA is that the
10 issue of alternatives to can be dealt with once and
11 once only through the Class EA and that subsequent,
12 let's say, timber management plans prepared under that
13 process, do not have to be submitted to that level of
14 scrutiny?

15 A. Yes, I believe that is true.

16 Q. So that the Class EA process is a way
17 to streamline, if you will, the environmental review
18 process?

19 A. I certainly hope so, yes.

20 Q. I think we all do. Now, would you
21 not say that another -- I am harping back to my
22 question as far as the purpose of the Class EA process
23 and I am not sure that -- and I will come back to the
24 four, actually five elements that you've described,
25 but I would just like to go back to the original

1 question which I am not sure was totally answered and
2 I'd ask you this:

3 Is there also advantage of using a Class
4 EA process in terms of developing consistency?

5 A. Yes, I would hope so.

6 Q. So the Class EA will streamline the
7 process and make it more consistent?

8 A. Yes.

9 Q. That is the purpose of the Class EA?

10 A. I think so, yes.

11 Q. Okay. Now, I just come back to these
12 five criteria that you raised here.

13 MR. HANNA: I'm sorry, criteria. Mr.
14 Chairman, that was not suggested. My use of words
15 perhaps is too lax there. I'm not just sure how to
16 characterize these.

17 Q. But you said a common set of
18 activities. Now, my understanding is the reason --
19 these are the characteristics of an undertaking that
20 are necessary for it to be suitable to a Class EA
21 process; is that fair with those five criteria?

22 A. Could you just repeat that again, I
23 am not sure I understand.

24 Q. I'm Going too quickly again, I
25 apologize. When I look at the five items that you have

1 listed, they look to me like the five characteristics
2 of an undertaking that would make it amenable to a
3 class environmental assessment?

4 A. Correct.

5 Q. They aren't the purpose of the class
6 environmental assessment, they are characteristics of a
7 class environmental assessment?

8 A. Correct.

9 Q. Now, what I want to get clarified is
10 the fifth point that you raised there, was that you are
11 expecting out of this process to get a decision from
12 the Board in terms of preferred alternatives rather
13 than a preferred alternative?

14 Is that what I understood?

15 A. I think what I said is that in this
16 particular approach we attempt to identify a method for
17 identifying preferred alternatives; that is, the
18 planning process that we've identified in our
19 submission.

20 Q. Okay, good. But by the same token we
21 don't want to go back and revisit alternatives to every
22 time, and so that what we are asking this Board to do
23 is to decide on alternatives to and to set out a
24 process to decide on alternative methods?

25 MR. FREIDIN: Well, Mr. Chairman, we are

1 talking about alternatives to the undertaking. I think
2 that alternative methods of carrying out certain
3 activities, Panel No. 17 is specifically directing its
4 mind to the subject matter of alternatives to the
5 undertaking and I think that is where --

6 THE CHAIRMAN: I think, Mr. Hanna -- I
7 realize that you want to clarify with Mr. Clark to the
8 extent that you can what his view is, but this whole
9 area of the process, the EA process, is going to be
10 dealt with I think in Panel 17.

11 And this particular panel deals primarily
12 with harvest, that is its focus, and I think it would
13 be preferable if you confined your cross-examination
14 to questions relating to that subject matter.

15 We are getting off into a broad generic
16 area of the process, the EA process itself, and I think
17 most of the parties will agree that we are going to
18 have to revisit all of this at a later date, you will
19 be there, so will all the other parties, so will the
20 Board.

21 So let's progress with this case in the
22 fashion in which the proponent has decided to put it
23 in; that is, by dealing with panels focusing in on a
24 narrower subject matter and the one that this panel is
25 dealing with is harvest.

1 MR. HANNA: I appreciate fully what you
2 are saying, Mr. Chairman, as we have been through with
3 this hearing so many times the chicken and egg and the
4 whole business and the complexity of this case, makes
5 these problems recurring. I will do my best in that
6 respect.

7 I did not want to get into a discussion
8 with Mr. Clark in terms of alternatives to, and I
9 appreciate that's Panel 17. The only reason I am
10 asking these questions is to really put in context the
11 fact that this panel and Mr. Hynard in particular is
12 bringing forward alternative methods.

13 THE CHAIRMAN: I know, but you could take
14 that position, and you can take that position in
15 argument, you can take that position in your own case.
16 They have brought forth evidence on harvesting and you
17 may feel that that's how their evidence should be
18 characterized.

19 They may disagree or the proponent may
20 take a different position, but I think what we are more
21 interested in is your specific questions to this panel
22 on the evidence to which they testify to, not how that
23 evidence was characterized necessarily in terms of the
24 EA process itself.

25 MR. HANNA: I guess the problem I have,

1 Mr. Chairman - I will do my very best on this - I
2 realize this is a complicated matter. It is for me to
3 ask this panel certain questions, particularly with
4 respect to alternative methods and, you know, the Act
5 sets out very definitely what's required in dealing
6 with alternative methods and...

7 THE CHAIRMAN: I can assure you there has
8 been considerable debate in the past over what some of
9 those sections mean, this is the Act.

10 MR. HANNA: You are referring to past
11 Board hearings or...?

12 THE CHAIRMAN: Not just past Board
13 decisions, but past court decisions -- you must
14 realize, we are into, all of us, an area that has been
15 interpreted by some of the players to the process, the
16 Board being one of them, the courts being another, the
17 Ministry being a third, and if you feel that there is
18 unanimity in interpretation of some of the provisions
19 of this piece of legislation, I would suggest that you
20 might be surprised to learn that not everyone agrees
21 with how this Act should be interpreted and what some
22 of those sections mean.

23 MR. HANNA: I agree. I would have a hard
24 time taking deference with that opinion, sir.

25 All right. Well, I will not -- I will

1 back off from the alternative to question, you know, if
2 I could just, you know, continue on with the Class EA
3 questions with Mr. Clark. There's only three more
4 questions.

5 MR. FREIDIN: I just want to make it
6 clear. I mean, I have no objection to asking questions
7 of the witnesses about alternative methods, but I have
8 some concern about you asking the witnesses questions
9 which are attempting to elicit their view as to what
10 the legal requirements of the Environmental Assessment
11 Act are.

12 THE CHAIRMAN: You see, this is what I
13 was talking about. Then we get to the stage in the
14 case where I would suggest that counsel is going to
15 argue in front of the Board their interpretations of
16 requirements of this legislation. And parties, believe
17 me, at that stage of the proceedings may have different
18 ideas as to whether or not all of the provisions had
19 been met. The Board will ultimately in its view have
20 to rule on that as part of the decision.

21 MR. HANNA: Well, I appreciate your
22 direction and I will follow that, sir.

23 Q. Mr. Clark, I am not asking for a
24 legal interpretation here, so be clear on that.

25 MR. CLARK: A. That's good.

1 Q. Okay. Can we go back to the EA
2 process on how it leads to streamlining. You remember
3 we agreed the EA process -- excuse me, the class
4 environmental assessment leads to streamlining and
5 consistency.

6 I would like to just talk about the
7 matter of streamlining. Would you agree that one of
8 the ways in which we achieve streamlining is to develop
9 a well defined and accepted procedure to undertake, in
10 this case, timber management planning and the
11 environmental assessment of that?

12 A. I would agree with that.

13 Q. And would you also agree that a way
14 to streamline the process is to bring forward
15 background information that will be used by all
16 undertakings prepared under the Class EA?

17 A. I am not sure I understand just what
18 you mean there. Perhaps you could explain a little.

19 Q. Okay. Well, this Board has heard
20 extensive evidence on, for example, MAD calculations
21 and one of the things -- one of the options I presume
22 this Board might have is to say: We think the way that
23 the proponent calculates MAD is acceptable and should
24 be used in all future timber management plans and,
25 therefore, each time you prepare a timber management

1 plan you aren't faced with a bump up on the basis that
2 your MAD calculation is flawed, you didn't do the right
3 process?

4 A. Yes.

5 Q. So that's an advantage of the Class
6 EA process?

7 A. I believe so. You can provide what I
8 would characterize as consistent direction which could
9 be applied throughout the area of the undertaking.

10 Q. And would you not agree that you can
11 bring forward, for example, generic mitigation
12 measures, for example in this case harvesting, and say
13 to the Board: These are the mitigation methods that
14 are available and our experience is that these are
15 acceptable and here are the types of impacts they have
16 and, therefore, these are acceptable in future timber
17 management plans.

18 MR. FREIDIN: Mr. Chairman, I have no
19 problem with the witnesses being asked whether there
20 are mitigative measures that can be taken, whether they
21 can be the same in all situations, whether you can in
22 fact design mitigative measures to deal with compaction
23 or rutting or anything that his client is concerned
24 about in a certain fashion. Those are questions I
25 would have no objection to.

1 I do have objection to the questions
2 being framed in the context that this is something that
3 the environmental assessment process was designed to
4 do. These witnesses are not here to answer those kinds
5 of questions.

6 They can answer questions about factual
7 matters which Mr. Hanna I and other counsel may wish to
8 rely upon for the purposes of argument at the end
9 and...

10 THE CHAIRMAN: And that will be the part of
11 the either argument or Panel 17's evidence; is that
12 correct.

13 MR. FREIDIN: Yes. I don't like jumping
14 up and down and interrupting my friend's
15 cross-examination, but this is an area that I am quite
16 concerned that we are starting off going down the wrong
17 track.

18 MR. HANNA: Mr. Chairman, I just want to
19 clarify what I am attempting to do here. I appreciate
20 what Mr. Freidin is saying - and certainly we look
21 forward to Panel 17 and hopefully at some point we are
22 going to discuss these issues - and I do appreciate the
23 role of argument and what should be dealt with at that
24 point.

25 I guess the analogy that I would use in

1 this line of questioning I am drawing here is we can
2 imagine being a joint Board, an Ontario Municipal Board
3 hearing and a land use planner coming forward.

4 That land use planner would come forward
5 and tell you this is how we went about the planning
6 process and whatever and would provide you with
7 planning evidence in that respect.

8 And I am simply asking if this witness is
9 the appropriate witness, I'm simply saying, who is
10 going to be coming forward with the planning of this,
11 the evidence underlying the planning of this
12 environmental assessment and the underlining
13 conceptions.

14 THE CHAIRMAN: Well, okay. What you are
15 asking, again, is who is going to testify, if anybody,
16 on the process, the EA process.

17 MR. FREIDIN: The planning part. All
18 right.

19 THE CHAIRMAN: We don't want to get
20 confused with terms. Who is going to be testifying, if
21 anybody, on the EA planning process as opposed to the
22 timber management planning process and that, as I
23 understand it, is going to be addressed by Mr. Freidin
24 in either Panel 17 or through argument, and correct me
25 if I am wrong, Mr. Freidin?

1 MR. FREIDIN: You are correct and I think
2 it would be through the latter, through argument.

3 Panel 17 will deal with the subject
4 matter of alternatives to the undertaking and will lead
5 that evidence. Whether in fact the proponent has
6 satisfactorily addressed that particular subject matter
7 will be a matter of argument.

8 Panel 15 will be dealing with the timber
9 management planning process which, obviously, and it's
10 understood by everyone, to be something i.e., a
11 planning process which is common to a class
12 environmental assessment.

13 THE CHAIRMAN: So I don't see
14 necessarily, Mr. Hanna, how these witnesses can help
15 you in the questioning that you are putting forth at
16 this time.

17 MR. HANNA: Fine, Mr. Chairman.

18 Q. Mr. Hynard, maybe we'll come back to
19 your evidence, if you would. There is one question
20 here that I meant to ask you earlier on and I forgot
21 and that has to deal with: What training have you
22 received specifically from the Ministry in dealing with
23 the proposed class environmental assessment planning
24 process.

25 MR. FREIDIN: Which process?

1 MR. HANNA: The class environmental
2 planning process.

3 MR. FREIDIN: By that you mean the timber
4 management planning process in Panel 15 which is
5 described in our evidence?

6 MR. HANNA: Mr. Chairman, we are going to
7 go around this a number of times. I guess the way
8 where I look at is there is timber management planning
9 and I see that as the undertaking.

10 MR. FREIDIN: No.

11 MR. HANNA: Well, I heard that this
12 morning and now I am hearing something different.

13 THE CHAIRMAN: Well, is what you are
14 asking the witness, has he had specific training in
15 terms of the preparation of a class environmental
16 assessment and, in particular, this class environmental
17 assessment. Is that what you are asking?

18 MR. HANNA: Yes, yes.

19 MR. FREIDIN: I don't think that's a
20 proper question.

21 THE CHAIRMAN: Well, have you had any
22 specific training, Mr. Hynard?

23 MR. HYNARD: No, I have had no specific
24 training.

25 MR. HANNA: Thank you.

1 Q. One last thing to be dealt with
2 before lunch that I would just like to clean up also
3 and that is this question of rules.

4 I am not going to go back all through
5 that again, but I just wanted to just talk briefly
6 about, you talk about this return cut matter in terms
7 of strip cuts and whatever and how that might be dealt
8 with.

9 I wanted to get your view as to what
10 procedures are necessary to permit, in those special
11 circumstances, deviations from the rules and, in this
12 case, I would like to talk about that return cut rule
13 that we were referring to before in the silvicultural
14 groundrules, the one that might have been there and --
15 I think you understand it.

16 MR. HYNARD: A. Yes. We use the word
17 criterion, yes. What exceptions might there be to
18 that?

19 Q. No, no. I want to talk about
20 procedure. In other words, I can anticipate situations
21 whether you would want to deviate, where there might be
22 reason.

23 I will give you an example. You have got
24 a leave cut or a leave strip and it is infested with
25 spruce budworm. So you say: Well, there is no point

1 in leaving it there any more, we might as well salvage
2 it and cut it.

3 The problem is you then are faced with
4 deviation of a rule or criteria - I forget the word we
5 used - and now we want to deviate?

6 A. Yes. What would be the procedure for
7 deviating from what it is stated in those groundrules
8 and what is stated in that plan will occur.

9 Q. Yes.

10 A. Well, the procedure would, it would
11 require an amendment to that management plan. If those
12 leave blocks are not allocated for harvest, it would
13 not be possible to make that cut despite those very
14 good reasons without an amendment to that plan.

15 There are three types of amendment; there
16 is major, minor and administrative and that decision on
17 which one of those categories this would be would be
18 made by the district manager, he would follow that
19 particular procedure according to whichever category
20 that might be.

21 Q. Okay. So there is a procedure then
22 built in to the system to provide some flexibility in
23 the event of rules of those nature?

24 A. Well, yes, that's the purpose of
25 amendments is that from time to time it may be very

1 advisable to change one's mind or to recognize that
2 circumstances have changed, yes.

3 Q. So if we go to your example about the
4 rulebook and the problem of arriving at - I think I
5 want to be very careful here - ludicrous results, the
6 result that you were talking about.

7 A. Yes.

8 Q. Ludicrous situations.

9 A. That's right.

10 Q. That there is the situation that if
11 you had a rulebook like that and you saw a ludicrous
12 situation of a stand of timber falling over because it
13 was infested with spruce budworm, that you could
14 deviate from that and there is a procedure for it.

15 A. No, I was talking about deviations
16 from silvicultural prescriptions as stated in the
17 groundrules. If you are talking about deviation from a
18 rulebook, I am not sure what you mean by that rulebook.

19 Q. So you are saying that the
20 silvicultural groundrules are not a rulebook?

21 A. They are a statement of what will
22 occur in that stand, in that forest condition and
23 that's what will occur. That's finite, unless that
24 plan is amended that is what will occur.

25 Q. Well, I am not sure; was that a yes

1 or a no?

2 A. I am not sure either.

3 Q. Well, I would prefer a yes or a no.

4 I think that's a yes or no answer -- question?

5 A. And you said, I am sorry...

6 Q. I will repeat the question?

7 A. Yes, please.

8 Q. Your term rulebook, would you see the
9 silvicultural groundrules in the timber management plan
10 being one of those?

11 A. No. When I was talking about a
12 rulebook I was not and certainly did not have a set of
13 silvicultural groundrules in mind.

14 Q. Okay. But now I ask you the
15 question, are the silvicultural groundrules a rulebook?

16 A. No, they are silvicultural
17 prescriptions.

18 THE CHAIRMAN: Would they have the same
19 effect if you called them a rulebook as you contemplate
20 what the effect of a rulebook would be, meaning they
21 are set down, they are in writing, they are not to be
22 deviated from unless the plan is amended, or there is
23 some other base for deviating?

24 MR. HYNARD: Yes, in that sense they are
25 like a rule. In that sense they are.

1 THE CHAIRMAN: Okay. I think that will
2 get you close enough to a yes.

3 MR. HANNA: That was close enough to a
4 yes, sir, yes.

5 Q. Okay. Now, I would like to go back
6 to where we left off at lunch and I would ask you to
7 turn to the actual transcript again to page 13097, I
8 believe that's Volume -- oh, there it is, it is Volume
9 78.

10 And I would like to read to you from
11 lines 4 to 9. This is your response to a question from
12 Mr. Freidin.

13 MR. FREIDIN: Can you just wait.

14 MR. HANNA: Certainly.

15 MR. HYNARD: That was 13098, Mr. Hanna?

16 MR. HANNA: 13097.

17 MR. HYNARD: 97, yes.

18 MR. HANNA: Q. It is actually line 5
19 there starting with: "For me..."

20 I will read it to you.

21 "For me to document all those aspects
22 behind the decision-making would be
23 cumbersome, it would be unwieldy and it
24 would be time consuming and it would take
25 away from my ability to do my job. I

1 think it is unnecessary."

2 Do you recall that?

3 MR. HYNARD: A. Yes, I do.

4 Q. Now, as I understand that response, I
5 am going to suggest there is two components to it; the
6 first component is that the documentation is so onerous
7 because the types of choices that are faced are highly
8 complex. Would you agree with that?

9 A. I guess in this case -- we are
10 talking here about documentation of rationale and I
11 take rationale to be a statement of reasons for a
12 course of action.

13 To document or to provide a paper record,
14 a document record of why, what reasons were there
15 behind a decision would really depend on the depth and
16 degree to which you wanted that rationale explained.

17 If we are talking about a simple
18 statement of reasons that one forester to another might
19 provide: I did it because I was working with poplar, I
20 did it because I had a good pine understorey. That
21 kind of a rational would not be very onerous and while
22 it might be useful to another forester, it certainly
23 wouldn't be very useful, in my opinion, to anyone
24 picking up that plan and reading it.

25 If on the other than we are talking about

1 providing studies, scientific studies that conclusively
2 prove that that course of action is the only course of
3 action, then, yes, it would be more useful and it would
4 be terribly onerous.

5 Q. I am going to digress here for just a
6 minute but I couldn't let that flag go by. Can you
7 tell me one scientific study that was totally
8 conclusive? Only one.

9 A. Oh, I am sure there are some. They
10 don't spring right to mind.

11 Q. My experience in scientific studies
12 is they are never conclusive, they are constructive and
13 you go on the best knowledge available. Is that not
14 generally the way the Ministry operates?

15 A. That they are not conclusive and
16 they go on the best information available? Is that
17 your statement, I am sorry?

18 Q. I am speaking here in terms of
19 environmental types of situations, I include timber,
20 forestry being in that class. That it's very --
21 because of the complexity of the environment, it is
22 virtually impossible to deal with all the complexity
23 and arrive at a conclusive statement in virtually any
24 situation?

25 THE CHAIRMAN: Well, why don't we just

1 sort of take judicial notice of the fact that that is
2 probably the case.

3 MR. HANNA: Thank you, Mr. Chairman.

4 MR. HYNARD: I should add though that in
5 most cases in which we are dealing the reasons behind
6 it are fairly obvious to the forester who is
7 prescribing it. It is not as if he was working in a
8 total vacuum and absence of knowledge and total
9 uncertainty as to what will be the outcome. That's not
10 the case.

11 MR. HANNA: Q. Without harping back,
12 there is need -- one of the reasons we have the
13 environmental process is to give the public a view in,
14 if you will, to these sort of decisions.

15 MR. FREIDIN: Why don't you ask him
16 whether it is important that the public have a view in.

17 MR. HANNA: Thank you, Mr. Freidin.

18 MR. HYNARD: Yes, I do believe it is
19 important that the public have a view in, I think it is
20 very important.

21 MR. HANNA: Q. And is it not an
22 advantage of a class environmental assessment of this
23 nature that instead of every time you are faced with
24 one of those decisions you have to explain it to the
25 public, that even though it takes three years to

1 finally tell everybody what's happening, at least it is
2 done and we can move on from there?

3 A. Well, I think the open public forum
4 of the hearing is a benefit.

5 Q. Okay.

6 THE CHAIRMAN: I was going to suggest, is
7 that not what we are engaged in?

8 MR. HANNA: That's what I was suggesting.
9 Sorry, I didn't mean in tubes here, Mr. Chairman. That
10 was what my suggestion was.

11 MR. HYNARD: I agree with your
12 suggestion.

13 MR. HANNA: Q. Okay. Now, another
14 reason that I can see that you would be faced with
15 onerous tasks if you were faced with having to justify
16 every decision that you make and I would just like to
17 say at the beginning, I am not suggesting that be the
18 case.

19 But another reason that you are faced
20 with that is that when you provide narrative
21 descriptions - and I accept the word narrative - is
22 that if you've got a very complex problem, it can be
23 very time consuming to explain it.

24 MR. HYNARD: A. Yes, it would be.

25 Q. And there are many ways to deal with

1 very complex problems and to set up formal rules that
2 reduce the need for narrative descriptions and that
3 make, if you will, the process of rationalization more
4 efficient.

5 Would you agree?

6 A. I would even have to ask you to
7 repeat that. The reason that I want to express myself
8 very clearly and understand your questions very closely
9 is that I feel very strongly that a set of imposed
10 rules, and especially rules requiring extensive
11 documentation or exception reporting, would be
12 counterproductive.

13 I gave that evidence earlier in
14 evidence-in-chief and my reasons for those feelings.

15 Q. I have read that before.

16 A. Yes, sir. And that's why I am --

17 Q. Your view are clearly pronounced.

18 A. Yes, that's why I am being careful.
19 So I must ask you to repeat the question, again.

20 Q. That's fair. Let me use an example.
21 I believe -- and we will be coming to this later on,
22 but I am just bring up at this point - the work that
23 you did in 1983 the financial model.

24 A. Yes.

25 Q. There is two ways I could go about

1 coming to a conclusion in terms of a good forestry
2 investment. I could provide a narrative description,
3 say I believe this author wrote whatever, or I can come
4 forward and say: economists have come up with what is
5 call present net value and they have developed a formal
6 procedure to calculate that and here is the procedure
7 and if you apply that, then I don't need to know your
8 rational because your rationale is in fact embedded in
9 that process.

10 A. Yes, I understand.

11 Q. So you would agree that that is a way
12 of dealing with large volumes of information and
13 complex problems? It is one way?

14 A. Please don't interpret that to mean
15 that I believe foresters should take that net present
16 value model and base their decision entirely upon it.
17 And I think if you read that paper carefully you will
18 understand that.

19 Q. I wasn't trying to infer that at all
20 and I do appreciate that difference.

21 A. I don't believe in economic rulebooks
22 anymore than I believe in silvicultural rulebooks.

23 Q. Mr. Hynard, just so we're clear, I am
24 not talking about rulebooks anymore.

25 A. Oh good.

1 Q. That is behind us, so let's move
2 forward here.

3 What I am trying to do is trying to look
4 at the way of letting you do your job as efficiently as
5 possible. And I appreciate what you said, I can
6 imagine if I was in your situation being frustrated at
7 having to sit here knowing that those trees back there
8 aren't being taken as good well care of, but they might
9 be - and I don't mean that facetiously, I think that is
10 quite important - but if this process gets approved
11 there is a possibility of a large volume of paper
12 perhaps ending up on your desk. I don't think that's
13 productive.

14 A. There already is a large volume of
15 paper on there.

16 Q. Okay. And what I am saying here, I
17 am just looking at this in terms of trying to make your
18 job more efficient, you will be more effective in your
19 job.

20 A. Good, we are working in the same
21 direction then. I think we'll start moving faster now.

22 Q. I don't think there is ever any
23 question that the Federation of Anglers & Hunters is
24 working in the same direction of the Ministry in terms
25 of where they want to go.

1 A. I am a member of the Ontario
2 Federation of Anglers & Hunters.

3 Q. Sir, I don't know whether that can
4 declare as meaning there's a conflict of interest, but
5 I am well aware of your membership, Mr. Hynard, and I
6 realize you are responding here not as a member but as
7 a professional forester and a member of the Ministry.

8 A. Thank you. And I haven't ever seen
9 it as a conflict of interest and I am glad we are
10 clear, it's no longer a conflict.

11 Q. Well, at least you've declared it if
12 it is. All right.

13 What I am trying to do is say that you
14 have here a complex problem - and you've given that too
15 in evidence - you've got site-specific characteristics
16 and all the difficulties, all the variabilities that
17 you are faced with, and I am trying to develop or try
18 to see if there is a way to deal with that more
19 effectively, more efficiently and the analogy that I
20 drew to you was the financial model and the financial
21 model is a way to deal with complexity in an efficient
22 way.

23 THE CHAIRMAN: Well, what is the
24 question, Mr. Hanna, what question do you want to put
25 to the witness?

1 MR. HANNA: Well, I am simply saying:
2 Are there other ways, other than narrative rationales
3 to rationalize an action?

4 MR. HYNARD: Well, your original
5 presumption - and I can appreciate it - was that you
6 wanted to make my job easier to do and in coming to
7 rationalizing a complex decision.

8 I don't have a lot of problems with
9 complex decisions, I am fine, I can arrive at good
10 silvicultural prescriptions for my unit. I think my
11 greatest limitation as a practising forester is
12 resources to do more work. So I am talking more
13 dollars, more stock, that kind of thing.

14 Q. Yes, thank you, you have made that
15 clear in the past also.

16 Okay. Well, let's just go through this
17 and...

18 MR. HANNA: If you will, Mr. Chairman, I
19 wanted to have a view in to see how complex these
20 decisions are, if you can follow along that for a
21 moment.

22 Q. I would like to look at the
23 complexity of decisions used or required to develop
24 silvicultural prescriptions or groundrules and I would
25 like to go through that and see how difficult it is to

1 arrive at that decision?

2 MR. HYNARD: A. Yes, okay. Fine.

3 Q. You also, Mr. Hynard, indicated you
4 have financial analysis experience and, therefore, I
5 feel -- I expect you have some propensity with numbers,
6 some?

7 A. My academic record doesn't stand
8 behind me.

9 Q. All right. Well, this is straight
10 multiplication, so I mean...

11 A. Okay. I'm okay at multiplication.

12 Q. Okay. I first of all would like to
13 refer to the Class Environmental Assessment for a
14 moment, if I could. I would like to refer you to page
15 37 of Exhibit 4.

16 And I won't read into the record lines 5
17 to 15, but if you could just look at those and then
18 answer this question: Do you agree with what is being
19 said there in that paragraph?

20 A. Yes, I do.

21 Q. And what is being said is that you
22 don't really make a decision on silvicultural harvest
23 system, that is somewhat of an artifact of Mr.
24 Freidin's, he needs to break out his case which we all
25 sympathize with, but in fact you make decisions on

1 silvicultural system which is in fact all the
2 activities combined?

3 A. Yes, that is true.

4 Q. Okay. And I am going to ask you to
5 help me here, because I am not sure either my math is
6 good or my interpretation is good, and I want to make
7 sure you help me here to get this correct.

8 But I have looked at the number of
9 permutations and combinations possible in terms of
10 arriving at a silvicultural groundrule, and we went
11 through it. You are familiar with permutations and
12 combinations?

13 A. Yes.

14 Q. Okay. Well, the first component, as
15 I see it in this process, is: You have to decide on
16 the type of cut; is that fair?

17 A. Perhaps it would be easier if I led
18 you through a decision-making process and --

19 Q. Well, I appreciate that. I think I
20 have already been through it and I have a pretty good
21 idea. Maybe I will just ask the question even more
22 specific.

23 My understanding is that there are
24 four -- or three, excuse me, basic cuts: The clearcut,
25 shelterwood cut and selection cut. I think that is

1 your evidence; is that not correct?

2 A. Yes, that is true.

3 Q. Let's just deal with the clearcut. I
4 am trying to keep this as simple as possible.

5 A. Mm-hmm.

6 Q. Now, as I recall -- and I am actually
7 looking here at the EA. What I have done is run
8 through this section of the EA, and when I say this
9 section I am referring to pages 37 -- it doesn't
10 include provision -- okay, it goes through to 55.

11 I believe that basically sets out the
12 different components of a silvicultural system?

13 MR. FREIDIN: What page?

14 MR. HANNA: Oh sorry, 55.

15 MR. HYNARD: I guess to 51.

16 MR. HANNA: Q. Okay, I'm sorry. As I
17 say, I didn't annotate that ahead of time, I am
18 certainly willing to be corrected.

19 I just want you to know where I am
20 getting my information from so you can refer to it as
21 we go through it.

22 MR. HYNARD: A. Mm-hmm.

23 Q. So let's deal just with the clear cut
24 section if we could first. And I am looking now at
25 page 39 and I see there four, maybe five what is called

1 shapes and sizes. I am looking at lines 9 through 12
2 on page 39.

3 A. Yes, I see that.

4 Q. Now, perhaps to a layman like myself
5 I am not exactly clear what the difference between a --
6 why a strip and a block cut would not be seen as two
7 different cutting patterns. Could they not be seen as
8 two different cutting patterns?

9 A. Yes, they could.

10 Q. So possibly you've got five cutting
11 patterns here?

12 A. Yes. There are other variations also
13 and I think those variations were presented in the
14 Panel 10 evidence.

15 Q. With respect to clearcuts?

16 A. With respect to clearcuts.

17 Q. Well, my number will be a
18 conservative number rather than a liberal number.

19 THE CHAIRMAN: Well, Mr. Hanna, if you go
20 through this line you are going to end up with a number
21 at the bottom; are you not?

22 MR. HANNA: Yes, you are.

23 THE CHAIRMAN: You are going to end up
24 with 87 combinations or permutations, et cetera, if you
25 go right through?

1 MR. HANNA: Yes. More than 87, Mr.
2 Chairman.

3 THE CHAIRMAN: Well, whatever number, you
4 know, whatever number going through this --

5 MR. HANNA: Well, maybe I will ask Mr.
6 Hynard.

7 THE CHAIRMAN: What is the question based
8 on the number?

9 MR. HANNA: I beg your pardon?

10 THE CHAIRMAN: What is the question based
11 on this line of --

12 MR. HANNA: Well, I think it's quite
13 clear, at least in my mind, that the witnesses felt the
14 documentation of these decisions is not required and I
15 would simply say that we have a very complex decision
16 process and one that is not transparent.

17 And I am simply exploring how that
18 decision process might be dealt with more effectively.
19 I am going to ask this witness how he deals with that
20 complexity and how this concern that he has in terms of
21 documentation might be dealt with.

22 THE CHAIRMAN: You are going to ask him
23 how he deals with it?

24 MR. HANNA: In his expert opinion.

25 THE CHAIRMAN: But are you going to be

1 putting before the Board another way of dealing with
2 it?

3 MR. HANNA: I can't say that at the
4 present time. If this witness comes forward and says:
5 Here, well, this a good way to do it, it may be
6 unnecessary, sir.

7 THE CHAIRMAN: Well, what I don't want to
8 get into is you, again, giving the evidence as to what
9 an alternate system of doing it might be. You can
10 question this witness on what he does and he will --
11 was willing a moment ago just to lead you through--

12 MR. HYNARD: Sure.

13 THE CHAIRMAN: --how he arrives at--

14 MR. HYNARD: Would that be useful, for me
15 to provide you with an example?

16 THE CHAIRMAN: --that decision. You can
17 ask him a question at the end of that as to whether or
18 not doing it in that fashion causes him a problem with
19 documentation, if that is the line of questioning you
20 want to deal with, and he can give you an answer on
21 that.

22 MR. HANNA: Mr. Chairman, I have read the
23 way the decision is made and I have, I think, a
24 reasonable appreciation of his evidence that has been
25 given and I do not want to re-enter that evidence.

1 THE CHAIRMAN: Okay. Well, this is what
2 I was going to get to, that most of that evidence is
3 already before us. So perhaps you might just--

4 MR. HANNA: Well then, I will just simply
5 ask Mr. Hynard --

6 THE CHAIRMAN: --ask him a question based
7 on the evidence that is already before us.

8 MR. HANNA: Q. Mr. Hynard, how many
9 combinations are there of silvicultural systems for the
10 clearcut system?

11 MR. HYNARD: A. Well, there are about
12 seven variations that are employed in Ontario. Those
13 are clearcuts, clearcuts with seed trees, clearcuts
14 with group seed trees, strip clearcuts, block
15 clearcuts, clearcuts in other configurations.

16 MR. HANNA: Well, Mr. Chairman, I think
17 this elucidates the concern I have in fact - and I will
18 explain this to you just in this next question - and
19 that is:

20 Q. Would you not say that there are
21 three different logging methods also?

22 MR. HYNARD: A. That was our evidence,
23 three logging methods.

24 Q. So now we have -- I believe you just
25 listed off five -- seven systems.

1 A. Seven.

2 Q. With three variations in terms of
3 logging, you have got 21 combinations there just
4 without going any further. So there's a lot more than
5 seven. And I am happy to have you draw them on the
6 flip chart and I will explain to you how you draw them.

7 A. You want me to draw seven times
8 three--

9 Q. Well, I can just --

10 A. --on the flip chart?

11 Q. I can do it narratively or we can do
12 it quantitatively, whichever way you prefer. I do it
13 quantitatively seven times three, but if you want to do
14 it narratively and talk about them all, that's fine.

15 THE CHAIRMAN: But where is this leading?
16 Where are we going to end up here?

17 MR. HANNA: Well, Mr. Chairman, it's my
18 understanding that one of the responsibilities and one
19 of the needs in environmental assessment is to document
20 the way you make a decision, document your rationale.

21 This witness has come forward and said,
22 in his expert opinion, he does not feel that
23 documentation is necessary, that it would be onerous
24 and overly complicated, and I am trying to look and see
25 how complicated decisions actually are and how he does

1 go about those decisions.

2 Now, if that is an unfair question -- or
3 those are an unfair line of questioning, I am quite
4 prepared to change my line of questioning.

5 THE CHAIRMAN: Well, you have on the
6 record his opinion as to documentation of rationale.
7 You have on the record, I would suggest in earlier
8 testimony, how the Ministry goes about making those
9 decisions, but if you want this witness to cover that,
10 I suppose that might be fair.

11 MR. HANNA: I would like to see how this
12 witness - and I will tell you now my calculations and I
13 have come up with 2,620 different combinations.

14 And I appreciate the Board doesn't want
15 to go through how I came up with that number, but...

16 THE CHAIRMAN: We are definitely not
17 going through all 2,000 of them, I can assure you.

18 MR. HANNA: And I would say to you, Mr.
19 Chairman, that indeed is my point, if in fact we have
20 before us that number of alternative methods being
21 proposed simply for the clearcut system alone, and I
22 am -- in the evidence that's been adduced by the
23 proponent themselves, and I am simply exploring with
24 this gentleman who has told us that he is an expert in
25 silvicultural systems how he might go about making that

1 choice given the complexity that he is faced with.

2 Now, if that is unfair, again, I shall
3 terminate that line of questioning.

4 THE CHAIRMAN: Well, Mr. Hynard, you have
5 been -- it has been suggested to you that there are
6 some 2,000 choices--

7 MR. HYNARD: Yes.

8 THE CHAIRMAN: --every time you make a
9 silvicultural system decision.

10 MR. HYNARD: Yes. I can see it will be
11 very onerous to provide the documentation of rationale
12 here. Actually --

13 THE CHAIRMAN: Can you, within a
14 reasonable time frame, tell us how you would arrive at
15 a silvicultural system decision bearing in mind these
16 2,000 choices?

17 MR. HYNARD: I think I did. I think I
18 spent a day and a half in direct evidence doing exactly
19 that, in explaining all of those factors that are
20 behind the choice of a silvicultural harvest system,
21 and they were the silvics of the species, and I
22 described all the various --

23 THE CHAIRMAN: Don't go through the
24 detail, but go through the sort of generic headings, if
25 I might put it that way, that you might consider in

1 making these kinds of decisions.

2 MR. HANNA: Well, Mr. Chairman, if I
3 could, I really don't see any need to put this back in
4 the evidence.

5 THE CHAIRMAN: Okay, fine.

6 MR. HANNA: I have that, I am aware of
7 that, whatever. Perhaps I can just continue on. All I
8 really wanted to establish was that we have a highly
9 complex problem. I gather now I have in fact put in
10 evidence that the 2,000 has become whatever, but --

11 THE CHAIRMAN: Well, that is
12 uncontroverted at this point. You have put it on the
13 record.

14 MR. FREIDIN: There is no evidence.

15 MR. HANNA: That is my concern and that
16 was the reason why I want to ask this witness and put
17 that on the record rather than have me put it on the
18 record.

19 THE CHAIRMAN: Well, I don't think it is
20 appropriate, again, for the evidence to come in through
21 you in this capacity of asking questions.

22 MR. HANNA: I agree fully, Mr. Chairman,
23 and that is why I want to follow those lines of
24 questioning with this witness.

25 THE CHAIRMAN: Okay, go on with your next

1 question, let's see where it will go.

2 MR. HANNA: Q. Mr. Hynard, I will
3 undertake in our evidence to prove that there is 2,160
4 possible combinations given the evidence that the
5 Ministry has brought forward.

6 Can we just accept that as a fact until
7 it's properly -- Mr. Freidin has had a chance to
8 challenge that whatever, and we will then decide
9 whether it's a fact or not?

10 MR. HYNARD: A. Well, I can accept that
11 you intend to put it into evidence yourself.

12 Q. Accept it as a hypothetical.

13 A. You presented it as an actual, 2,160.

14 Q. No, no, the Chairman has made it very
15 clear, I can't put in evidence, I am not qualified as
16 an expert.

17 THE CHAIRMAN: Okay. Can you accept, Mr.
18 Hynard, that there are a number of choices that go into
19 a silvicultural system decision?

20 MR. HYNARD: Yes.

21 THE CHAIRMAN: And they are certainly
22 more than seven, three, they are infinite -- not an
23 infinite, but there are a lot of choices?

24 MR. HYNARD: That's right. There are a
25 number of factors involved in that choice.

1 THE CHAIRMAN: Okay. All right. Assume
2 that for the purposes of the question.

3 MR. HANNA: Q. That is where I am coming
4 to is factors, but I want to just deal with how many
5 choices we had to decide on first. So we've got a lot
6 of choices. There's --

7 MR. HANNA: Mr. Chairman, this might be a
8 good time for me to have a break because I had a line
9 of questions to demonstrate the number and it may be
10 better.

11 THE CHAIRMAN: Okay. We don't want to
12 hear the number right now.

13 MR. HANNA: I appreciate that.

14 THE CHAIRMAN: You can put that in in
15 your own case. We will take a break.

16 ---Recess taken at 3:10 p.m.

17 ---Upon resuming at 3:45 p.m.

18 THE CHAIRMAN: Thank you. Be seated.

19 MR. HANNA: Mr. Chairman, I am concerned
20 about this 2,160 number. In fact, it's quite
21 hypothetical at the present time.

22 Q. Mr. Hynard, would you mind
23 undertaking to sit down this evening and doing a
24 calculation for me and coming back to the Board and
25 telling the Board the number you come up with in terms

1 of the number of combinations?

2 THE CHAIRMAN: Well, just a second. What
3 is the absolute value of coming up with a precise
4 number?

5 MR. HANNA: Sir, I don't care whether
6 it's a precise number, I want to get an order of
7 magnitude number. If Mr. Hynard comes back and says:
8 I came up with 1,900, I am not going to challenge his
9 number. I simply want to -- I haven't got all the
10 evidence and I was not allowed to follow through --

11 THE CHAIRMAN: Okay. But what is the
12 purpose of even finding a number in the 1900s? I mean,
13 can't we just generalize it to the extent of getting
14 Mr. Hynard's agreement or disagreement as to whether or
15 not there are a large number of choices involved or a
16 small number of choices involved? Would that not
17 suffice?

18 MR. HANNA: Certainly, that is fine with
19 me, Mr. Chairman.

20 THE CHAIRMAN: Or maybe we can just get
21 this out of him right now.

22 MR. HYNARD: Yes, there are a number of
23 choices. I would not put it anywhere near 2,160.

24 THE CHAIRMAN: Can you give us some kind
25 of rough range, approximately?

1 MR. HYNARD: Well, the number of choices
2 that would be available would vary, they would vary
3 depending upon where you were in the province.

4 THE CHAIRMAN: In your unit, you know
5 your unit the best?

6 MR. HANNA: Mr. Chairman, I just want to
7 make sure, that's not the question I am asking. I just
8 wanted to make sure. I don't mind if you ask that
9 question, but I just want to make sure the information
10 that I want to get from the witness is clear.

11 THE CHAIRMAN: Well, give us the purpose
12 of why you want this information?

13 MR. HANNA: I simply want to have this
14 witness' view about the complexity of the decision he
15 is faced with in developing a set of silvicultural
16 groundrules.

17 THE CHAIRMAN: Okay. So why don't you
18 ask him about that? It doesn't have to be based on a
19 number.

20 MR. HANNA: But why shouldn't it be? I
21 would rather be precise.

22 THE CHAIRMAN: Witness --

23 MR. HYNARD: May I give it a try?

24 THE CHAIRMAN: Well, you can give it a
25 try but I was going to indicate to you that the Board

1 will not compel you to spend time tonight coming up
2 with a number.

3 MR. HYNARD: Thank you, Mr. Chairman.

4 THE CHAIRMAN: The Board feels that that
5 is unreasonable in the circumstances, but that doesn't
6 mean that you can't answer the question in general
7 terms.

8 MR. HYNARD: Yes. I would like to answer
9 what I understand to be the spirit of the question and
10 that is regarding the complexity of developing
11 silvicultural groundrules and I will use myself in my
12 own unit as an example.

13 The complexity does vary. In most
14 circumstances it is a relatively straightforward choice
15 for me. It's straightforward for me because I have an
16 education in forestry, I have specialized training, I
17 have a great deal of experience.

18 Let me pick a relatively straightforward
19 example. I have a maple stand, it contains a mature
20 component in a harvestable stand, a stand eligible
21 according to my criteria for harvest, how am I going --
22 what silvicultural harvest system am I going to employ.

23 The first thing that I look at as a
24 forester is: What is the quality of that stand like
25 and what's its size/class distribution, relatively

1 straightforward. If I am running a size/class
2 distribution, something resembling a reverse J curve;
3 that is, I have a variety of sizes of trees and a
4 variety of ages well -- or reasonably well represented,
5 they are never perfect curves, then I have a stand
6 whose structure is suitable for selection management.

7 However, there is little point in
8 managing a stand selectively if all those trees are
9 unfit for saw timber production. Remember, my goal of
10 management is to make an economic contribution and
11 quality trees make a great economic contribution, low
12 grade trees don't.

13 If the answer is yes, I have reasonably
14 good quality in that stand, if it meets my criterion of
15 40 square feet and greater and trees four inches and
16 larger that are suitable for saw timber production, I
17 have a stand whose quality is acceptably good.

18 The next question facing me is: Do I
19 have a harvestable component, and I cruise the stand to
20 look at that. Is there enough timber to be removed,
21 the stocking high enough, the material that can be
22 removed from the stand, is there enough for an economic
23 cut. The answer to that one is leading me towards a
24 selection cut.

25 If some of those answers were no, if my

1 stand was dominated by large defective timber that
2 didn't have good quality suitable for continued saw
3 timber production, I would then look at the
4 regeneration present on the forest floor and, is there
5 enough advanced growth to restock the stand following
6 cutting, yes or no. If the answer is yes, I can go to
7 a clearcut.

8 If a further question says: Are there
9 any good and mature stems in the stand, it leads me to
10 a clearcut with standards. If one of those answers was
11 no, I don't have enough advanced reproduction, my next
12 question is why, is there something about the site,
13 poor drainage, why is the maple not reproducing itself,
14 is it better suited to another species, a species
15 already present in that stand as a lesser component.

16 These are the factors that are going
17 through my mind as I run down through this little key.
18 And I could do that relatively quickly and relatively
19 easily. In fact, for me a quick walk through the stand
20 will confirm all of those conditions and I can make a
21 choice.

22 If I had to document all of that, trace
23 you down through that key and why I made those
24 different paths in that key along the way, then that
25 will be adding to my task; I will be busy doing that

1 rather than looking at the stand. Those are some of
2 the factors in one stand condition.

3 Now, in the case of other species, white
4 pine and poplar mixtures, for example, I would be
5 looking more at soil conditions. I would be looking at
6 other factors. So the factors that I am going to look
7 at are highly dependent on the situation at hand, the
8 number of questions facing me and my route down that
9 dichotomous key will vary, and I can do it relatively
10 quickly and relatively easy because I am educated in
11 forestry, I am trained in that kind of thing and I have
12 experience in it.

13 The adding of documentation to it adds to
14 my workload. It doesn't help me solve a problem that I
15 already know.

16 MR. HANNA: Q. When the silvicultural
17 groundrules in the timber management plan are
18 developed, would you agree that one of the reasons for
19 the exercise is to try and reduce down the great number
20 of combinations to a more workable size?

21 MR. HYNARD: A. Well, the purpose of the
22 silvicultural groundrules is to come to a prescription
23 for how those stands will be treated.

24 Now, you raised a question earlier about
25 options and sometimes it is not possible to have

1 arrived at the final preferred option until you have
2 seen more about the stand or more about the harvesting.
3 In the case of renewal options, you might want to know
4 more about the harvest.

5 And that is the purpose of the
6 silvicultural groundrules, is to state how that stand
7 will be handled.

8 Q. Mr. Hynard, why would we have rules?
9 We have rules, in my view -- why do we have approval
10 for the timber management plan? We have approval and
11 go through that process to try to say you can't do all
12 of the great number of combinations. On this
13 particular site we want to do this set of combinations,
14 and there maybe a variety of combinations that you can
15 do on any one site, but you can't do the other
16 combinations unless you get prior approval?

17 MR. HYNARD: A. Sorry, Mr. Hanna, I
18 didn't understand the question, there.

19 Q. Fine, I will try again. If we didn't
20 have silvicultural groundrules you would essentially
21 have available to you all of the great number of
22 combinations on all sites; is that correct?

23 I am just talking about it, I realize
24 that you as a responsible forester would not want to do
25 that, but you would have them all available to you.

1 A. Well, I think options are always
2 available to us. If I were to arrive in any one of
3 those stands that had a silvicultural prescription in
4 the groundrules and I found it, in my opinion, was
5 inappropriate, I would then look at the other options.
6 The silvicultural --

7 Q. What I am asking is - it's a very
8 simple question I think in my mind - and that is: Why
9 do we have silvicultural groundrules, as to what reason
10 we have a rule is to limit, if you will, its
11 determination as to what is reasonable on that
12 particular working group site class?

13 A. I would like to -- in answering your
14 question, I would first like to say that these
15 groundrules are not rules. Groundrules, I have always
16 thought of as kind of basic rules of a game in setting
17 about on an endeavor of some kind, and I say rules of
18 the game in a broad sense. I have always thought of
19 them as a kind of a misnomer in this context.

20 But, at any rate, the purpose of those
21 groundrules is to go through that orderly process
22 that's the whole purpose of timber management planning,
23 we set objectives, what is it we are trying to do
24 there? We have a strategy, how can we best do it? And
25 the silvicultural groundrules play one part in that

1 large process.

2 What is the treatment techniques we will
3 employ on a variety of the forest and stand conditions
4 out there, let's write them down and let's name the
5 stand so that we can get on with the job. It's one cog
6 in the wheel.

7 Q. I appreciate that. But I again ask
8 you to try to put your mind around the fact that we are
9 now talking about an environmental assessment and -- or
10 at least we have an environmental assessment, would you
11 not agree that the reason we have an environmental
12 assessment is to give the public a view in the
13 decisions that you are making at whatever level?

14 A. Well, my understanding of why we have
15 an environmental assessment was because the government
16 of Ontario back in 1975 decided that any proponent of
17 an undertaking that will have a major effect on the
18 environment should carry out an assessment of what
19 those effects are and all these other elements of an
20 environmental assessment.

21 Yes, the public open forum has benefits.
22 My understanding of the purpose of the environmental
23 assessment is as described in the Act.

24 Q. Right. And that is -- that is, we
25 have public notification and we have your timber

1 management plan open for the public to see, to provide
2 them some understanding of what they can expect on a
3 piece of land and how you come to that conclusion; is
4 that not fair?

5 A. Yes, yes, that is one of the reasons
6 that we have public participation. I think there are
7 other reasons.

8 The other reasons that spring to my mind
9 are that we have other forest uses, other forest users,
10 and other forest values besides the forest industry and
11 besides timber production.

12 Part of that public participation
13 process, which I understand was originally a condition
14 of the exemption order for timber management, the
15 reason behind that, or at least the reason that I see
16 behind it is to make sure that all those users and all
17 those values are recognized, that they have input and
18 say into it. And I see great value in that.

19 Q. Right. And likewise that, if you
20 will, in the event that they have a serious
21 disagreement with what might be proposed that they have
22 the option of having an independent party have their
23 concerns heard and that independent party is this
24 Board, and that is the reason that the Class EA has
25 bump-up; would you agree?

1 MR. FREIDIN: Well, that is a legal
2 question and I think the bump-up provision indicates
3 that if someone is dissatisfied they can ask or make a
4 particular request of the Ministry of the Environment,
5 et cetera, et cetera, and --

6 MR. HANNA: Mr. Chairman, I was not
7 asking --

8 MR. FREIDIN: It isn't necessary to get
9 to a hearing.

10 MR. HANNA: Mr. Chairman, I was not
11 asking the witness what the bump-up procedure is or
12 anything like that, I was simply trying to ensure that
13 we are both talking about the same thing in terms of
14 why we go through this process and what it is we are
15 trying to achieve.

16 And I am trying to say: Here's a set of
17 rules, the reason we set out those set of rules so the
18 public knows what is going to happen on that piece of
19 plan and we have some understanding of the rationale
20 for that. It seems a very simple question.

21 I am not asking this witness at all to
22 give me his legal interpretation of the Environmental
23 Assessment Act and the procedure whereby that might be
24 implemented.

25 THE CHAIRMAN: So what is your precise

1 question?

2 MR. HANNA: My precise question is
3 simply: Why do we have silvicultural groundrules and
4 my question of the witness was that one of the reasons
5 you have silvicultural groundrules is to provide some,
6 if you will, accountability to the public as to what
7 will be permitted on that particular site.

8 THE CHAIRMAN: Well, let the witness
9 answer. Why do we have silvicultural groundrules?

10 MR. HYNARD: We have silvicultural
11 groundrules as a part of a timber management plan to
12 lay out the forest management activities which will
13 occur on a unit over the five-year period in order to
14 achieve the objectives that are stated in the plan.
15 That is the purpose of the silvicultural groundrules.

16 THE CHAIRMAN: Is the purpose of the
17 silvicultural groundrules to document and set out in
18 accountability terms how the decision was arrived at so
19 that the public could look at it and see precisely how
20 the decision was arrived at and be held accountable if
21 somebody disagrees with what is planned for that
22 particular site?

23 MR. HYNARD: No, that is not the purpose
24 of the silvicultural groundrules, at all.

25 THE CHAIRMAN: Okay. So your answer is

1 no?

2 MR. HYNARD: No, that is not the purpose,
3 at all.

4 MR. HANNA: Q. Can you explain to me
5 then why, if you deviate from the silvicultural
6 groundrules, we have the proposed modification -- or
7 amendment, excuse me, process that's been set up?

8 MR. HYNARD: A. Well, in my
9 understanding, the reason for the amendment process and
10 the reason for -- well, let me go back to the timber
11 management plan itself.

12 It is a document leading to a statement
13 of the activities which will occur, at least a forecast
14 of activities which will occur on that forest
15 management unit over that period of time for the
16 purposes stated in the plan.

17 THE CHAIRMAN: And it's binding?

18 MR. HYNARD: And it is.

19 THE CHAIRMAN: And it must be carried out
20 in that form?

21 MR. HYNARD: That's right. If those
22 activities occur they must occur in that form. It
23 doesn't mean all the activities will necessarily occur.
24 If markets are down, the level of harvest may be down
25 and so on.

1 However, we have gone forward and you are
2 right, Mr. Hanna, we have gone forward to the public
3 and stated this is what we intend to do, and we are
4 looking for your input and participation in that plan.
5 In order for you to provide meaningful comment you have
6 to know exactly what you are commenting on.

7 So part of the promise is that should we
8 deviate from our plan, or should we later change our
9 mind and wish to deviate for any reason, that we will
10 amend the plan.

11 THE CHAIRMAN: Through a process where
12 the public gets a chance to comment; is that correct?

13 MR. HYNARD: Exactly. Through a process
14 that is stated and if it is a major amendment, it will
15 go through the full range of public participation that
16 a management plan goes through.

17 MR. HANNA: Q. Okay. I come back to the
18 very initial question for that long harrangue and that
19 is: Would you not agree, therefore, that one of
20 reasons we have silvicultural groundrules is to limit
21 or to reduce the number of combinations, if for no
22 other reason, to tell the public what they can expect
23 on a particular piece of land?

24 MR. HYNARD: A. Well, I have always
25 always thought they existed before the public

1 participation process and the purpose of them is for
2 the forester -- to lead the forester to lead himself
3 through that decision-making process to see which
4 silvicultural techniques are the ones that will work
5 best to attain the objectives he has stated in his
6 plan.

7 Q. Mr. Hynard, I appreciate the role
8 that the guidelines have for you as a forester, I see
9 that role. Try and think of yourself as not a unit
10 forester and what the rules mean to you as a unit
11 forester, but what they mean to someone from the
12 outside. What why would somebody from the outside want
13 to have groundrules, in your view?

14 A. Well, I think there are a couple of
15 reasons that they would. If they are a party who has a
16 direct interest in or an interest in or who makes use
17 of a piece of Crown land, they like to know exactly
18 what activities are being proposed and planned because
19 it may affect them and those silvicultural groundrules
20 and all of the accompanying maps and documentation
21 explain exactly which activities are being planned to
22 occur.

23 Given that, those interested parties can
24 then state any concerns that they may have. If they
25 have concerns, of course, the area may become an area

1 of concern in the planning process which goes through a
2 slightly modified planning process to accommodate that
3 special interest or value.

4 Q. Let's not get into areas of concern
5 right now, please.

6 A. Okay.

7 Q. One comment you made I would just
8 like to pick up on and that was -- I think your comment
9 was something to the effect that you can't comment on
10 something unless you know specifically what's going to
11 happen.

12 Is that what you said?

13 A. Yes, I believe I did.

14 Q. Can we look at Exhibit 512, please,
15 which is the pages that we have taken from the Red Lake
16 Crown Management Unit Timber Management Plan. Now, I
17 would like to look at Table 4.1.2 on page 54.

18 MR. FREIDIN: 4.11.2?

19 MR. HANNA: I'm sorry, 4.11.2.

20 Q. Now, Mr. Hynard, my understanding is
21 that this is one of a number of working groups in this
22 plan; is that correct?

23 MR. HYNARD: A. Yes, it is, it's a
24 number of working groups and I interpret this to be
25 also a number of forest units.

1 Q. I am sorry, perhaps you can give me
2 the right terminology there. I was calling SB-2 a
3 working group. SB is a working group and 2 is what?

4 A. Well, I am not sure myself, this
5 being a new introduction to this plan to me too, and
6 there may be an explanation elsewhere, I presume there
7 is. I infer from that that it is a forest unit or a
8 further subdivision of the working group for management
9 purposes.

10 Q. I would likewise interpret it that
11 way. Let's for now just interpret that SB-2 is a
12 subdivision of a spruce working group.

13 And we have in there I believe at least
14 ten different of these sub-working groups in that
15 particular plan; is that correct? It is more than one.

16 A. Yes, yes, and it seems the difference
17 between them, the difference that I see, is in site
18 description and also in prescription.

19 Q. Okay, fine. All right. Let's just
20 take, sir -- let's just go through just this one, this
21 SB-2 working group if we can.

22 Now, it looks to me like we have a number
23 of possibilities even with this subdivision of this
24 working group that would be permittable within that
25 sub-group. Is that your interpretation of that?

1 A. Yes, I infer there are three options
2 that are possible, three treatment options that are
3 possible.

4 Q. I am sorry, treatment. You are
5 looking now under the title, Renewal Treatment
6 Description?

7 A. Yes, I am.

8 Q. Okay. Well, I see more than three
9 options and maybe I am not interpreting this correctly?

10 A. I am sorry it continues on the first
11 page, 4.11.3, SB-2 continues on that following page.
12 There is another option on that page.

13 Q. Let's go through this slowly and
14 methodically and make sure we just see how many things
15 we have to deal with on this particular one, okay?

16 A. Yes.

17 Q. Now, it looks like the first option
18 we come to is under silvicultural system. Would you
19 agree with that?

20 A. Yes, I do.

21 Q. Okay. And as I read that I see we
22 have three options available to us, given our
23 discussion before, we will separate out strip cut and
24 group cut as two different silvicultural target systems
25 at this point?

1 A. Yes, there are three.

2 Q. Okay. And then we will move on to
3 the method of harvest and I see that we have two on the
4 first page and three on the second page; is that
5 correct?

6 A. Yes, that's correct.

7 Q. Okay. And now we go on to renewal
8 and I see that we have three in the renewal and one
9 more on the next page; right?

10 A. Yes, I see four.

11 Q. Okay. And tending, we have got -- I
12 believe tending is the same for them all?

13 A. Yes, that's what appears in that
14 final column.

15 Q. Okay. How would you go about
16 calculating the combinations in that table? How many
17 possibilities can the public expect for that particular
18 working group to occur?

19 A. Well, with regard to the
20 silvicultural harvest system, they could expect three
21 possibilities; with regard to the logging method, they
22 could also expect three; with regard to the renewal
23 method, there they could also -- they could expect
24 four.

25 Q. Well, how many possibilities -- like,

1 how many possibilities are there to be public to expect
2 on that particular site?

3 A. Well, they could expect any one of
4 that range that I described to you.

5 Q. Maybe I will ask you this question,
6 Mr. HyUnard: How do you calculate combinations?

7 A. Well, combinations, as I understand
8 it, are calculated as an effect, normally they will be
9 multiplied one by each other.

10 Q. So how many combinations do we have?

11 A. In that case we would have three
12 times three times four. That would be 36.

13 Q. So for this one working group on this
14 one site type, there is a possibility of 36 different
15 ways in which the Ministry can go about treating that
16 site?

17 A. You are talking there about the
18 combinations of all silvicultural harvest systems,
19 logging methods and renewal treatments.

20 Q. Yes.

21 A. All of the combinations of those
22 various possibilities. In each category there are only
23 three, three and four. Yes, that's right. There is --
24 there are options there. Options are good.

25 Q. I was not challenging that at all. I

1 am simply asking how many choices there are, and I
2 think you have told me there is 36.

3 THE CHAIRMAN: Is your question, Mr.
4 Hanna, how will the public know which choice you are
5 going to choose.

6 MR. HANNA: We will be getting shortly,
7 but I don't mind asking it now.

8 THE CHAIRMAN: Well, let's maybe shorten
9 this line by asking that question now.

10 MR. HYNARD: The public, in reviewing
11 this, will know that any one of those options may
12 occur.

13 THE CHAIRMAN: They will not know which
14 one will in fact occur?

15 MR. HYNARD: They will not know which one
16 will in fact occur. It is possible that the forester
17 himself at this point will not know which one will
18 occur.

19 For example, on that second page, 4.11.3,
20 it is dependent upon the presence of sufficient
21 advance growth to restock the stand to the stocking
22 standards specified. He may not be certain of that
23 now.

24 THE CHAIRMAN: In your view, would it be
25 desirable for the public to know which one you're going

1 to use, or possible for the public to know which one
2 you are going to use precisely?

3 MR. HYNARD: It may be. If the public or
4 an interested party was going to be affected adversely
5 by one of those options, they would raise that as a
6 concern and say: This particular option that you are
7 suggesting on SB-2 will adversely affect our interest
8 or that particular forest value.

9 Q. Dr. Euler, is it possible that you
10 could have different wildlife effects among a strip
11 cut, a group seed tree cut and a clearcut?

12 DR. EULER: A. Yes, it is possible.

13 Q. Thank you. So going through this,
14 Mr. Hynard, you would agree with me that starting out
15 at our great number of possibilities that we have
16 got -- I'm sorry.

17 MR. HYNARD: A. I missed Dr. Euler's
18 answer.

19 Q. Oh, go ahead.

20 DR. EULER: A. Yes, it is possible.

21 MR. HYNARD: A. Then I missed your
22 question.

23 Q. That's fine. I will start again. I
24 am simply saying that, as a result of these
25 groundrules, we have got somewhere and, in fact, that

1 we have gone to this great number - not a high number -
2 down to at least 36 options, so we have reduced it
3 substantially; would you not agree?

4 A. Oh, yes, we are down from 2,160 I
5 understand to 36. That's a considerable reduction.

6 Q. I should have actually a large number
7 in there, or something like that.

8 Okay. Can we go back to your evidence
9 and I would like to refer you to page 13101 of the
10 evidence. That's in Volume 78.

11 A. Page 13101 of the transcript, yes.

12 Q. Yes, that's correct. I think this is
13 worthwhile reading into the record. Mrs. Koven she
14 asked you:

15 "And your comments apply only to the
16 silvicultural
17 guidelines. Obviously you are not
18 debating that
19 the documentation rationale in a timber
20 management
21 plan, for example?

22 MR. HYNARD: No, that's right. I am
23 talking about

24 the rationale for the silvicultural
25 groundrules in

1 normal operating areas."

2 Now, can you clarify for me what you
3 meant there?

4 A. Yes. I was referring to the
5 silvicultural groundrules for the normal operating
6 areas, the tables that we have been discussing. There
7 are other prescriptions in other tables and I am
8 thinking there of the operational prescriptions for
9 areas of concern.

10 Q. Quite honestly I don't want to get
11 into areas of concern here, I merely want to deal with
12 your response here.

13 THE CHAIRMAN: No, but he is trying to
14 explain what he meant in those words, and he is saying
15 that normal operations have associated with them
16 certain silvicultural groundrules and that there is
17 another class of silvicultural groundrules that are
18 applicable to areas of concern, to the working class
19 which are areas of concern.

20 Is that what you are saying?

21 MR. HYNARD: Exactly. If, for example, a
22 member of Hartley's planning team representing wildlife
23 interests were to find that one of those options
24 described on Table 4.11.2 and 4.11.3 was unacceptable
25 or had unacceptable effects upon wildlife, then he

1 would raise that concern. That would be raised, I
2 presume. I presume because they are here that all of
3 those options were acceptable.

4 MR. HANNA: Q. Okay.

5 MR. HYNARD: A. You will be able to ask
6 Mr. Multimaki himself in Panel 15.

7 Q. Oh, we certainly will. I am not
8 asking you for the rationale of those particular
9 guidelines, I am asking simply about your comments that
10 you made to Mrs. Koven.

11 Would you have any idea, again just a
12 ballpark estimate, what portion of the area of the
13 undertaking would be designated normal operating area
14 and that would likely to be an area of concern?

15 A. Well, the great being bulk would be
16 normal operating areas.

17 Q. In your particular management unit in
18 Minden, what proportion would be an area of concern?

19 A. I will have a drink of water here.
20 Like Dr. Euler says, have a drunk of water, it's is
21 going to take some time.

22 I am going to have to confess, first of
23 all, that the last plan that I wrote for that area, the
24 plan -- the forest management plan for the Minden unit
25 covering the 20-year period 1980 to 2000 followed an

1 entirely different manual and format and procedure.

2 When I wrote that plan, I withdrew from
3 the MAD land base timberland -- production timberland
4 that I felt would be unavailable to timber production
5 because of dedication to some other supersede and
6 incompatible land use. That accounted for 14 per cent
7 of what would have been the MAD land base.

8 I then allocated stands in the normal
9 procedure, calculated allowable cut and allocated
10 stands. Within the stands that I allocated, 83 per
11 cent of those individual stands had a prescription of
12 one type or another to accommodate some other use. So
13 on my unit I have a very, very high percentage of areas
14 of concern.

15 Now, according to the new procedure - and
16 I haven't run all those stands through the system - I
17 am not sure what the shakeout would be percentagewise.
18 Many of those concerns resulted in no change to
19 silvicultural operations whatsoever. In fact, on all
20 of the areas allocated, despite the fact that 38 per
21 cent of them had some accommodation for another use or
22 another value, they did not result in a change of
23 silvicultural treatment.

24 You might then ask: What kind of
25 modification are we talking about. We are talking

1 there about the protection of privately maintained
2 roads, we are talking about the restoration or
3 protection of hunt camp trails, we are talking about
4 notifying landowners and coming to resolution of
5 boundaries between Crown and private lands where
6 logging operations butted up against private land
7 boundaries, we are talking about contacting mining
8 licensees and patentees to determine what mining claim
9 posts improvements existed for their protection.

10 83 per cent of the allocated stands, if
11 my memory serves me correctly, had some accommodation
12 like that. Deer yards too would have accounted for a
13 considerable number.

14 Q. So they would have been classified as
15 areas of concern according to the definition that the
16 Ministry is bringing forward in this --

17 A. Oh, definitely in the current
18 definition. I had them splite into two actually;
19 core -- in the deer yard core stands which --.

20 Q. No, no. I was asking a question
21 about the 83 per cent?

22 A. The accommodation of some deer value
23 in there would be part of that 83 per cent. I am not
24 sure of the exact percentage.

25 Q. I understand, I understand that

1 respect. All I'm saying, the number -- you said 14 per
2 cent of your management unit was...?

3 A. 14 per cent of the MAD land base was
4 not available because of some superseding and
5 incompatible use. On the timber allocation which
6 occurred on land that was available for timber
7 production, 83 per cent of the stand allocated for
8 harvest had - oh, I hate to bring new jargon in - an
9 MMA prescription, modified management area. It is sort
10 of like an AOC.

11 Q. This is a new term?

12 A. No, it is an old term. Let's drop
13 that one.

14 Q. I guess every time I try to get
15 simple numbers I get complicated answers.

16 I just simply would like to know what
17 portion of your management unit would fall within the
18 definition of an AOC, an area of concern, as described
19 in the current timber management planning process in
20 this province?

21 A. In that case I can't give you a
22 precise number because it would vary from planning
23 period to planning period depending on which stands
24 were allocated and which concerns were identified in or
25 adjacent to those particular stands.

1 However, it would be a very high
2 percentage, and the numbers that I gave you were for
3 the last five-year period.

4 Q. This has the potential of going
5 through the whole timber management planning propose
6 and we realize that's in Panel 15.

7 A. Yes.

8 Q. So we'll --

9 A. Regrettably I can't be here at that
10 time.

11 Q. Well, let's that lie, Mr. Hynard. I
12 am sure that can take a long time just in itself.

13 Can we just go back to the transcripts
14 for a minute, and Mr. Freidin asked you - after your
15 response to Mrs. Koven -

16 "If silvicultural groundrules are a
17 product, if I can use that word, which
18 gets documented in the timber management
19 plan, do you have silvicultural
20 groundrules in your --"

21 And you interjected".

22 "A. That's right. They are there, but a
23 rationale is not provided."

24 Q. You go on to say:

25 "I am writing a timber management plan

1 now and believe me there is enough
2 paperwork involved."

3 Do you recall that?

4 A. Yes, I have the words right in front
5 of me and I certainly wouldn't dispute whatever Bev
6 wrote down - oh, except for young Steve.

7 MR. HYNARD: There was an error, Mr.
8 Chairman.

9 THE CHAIRMAN: We missed that one.

10 MR. HYNARD: There was an error in the
11 transcript - I can't find the page right now.

12 MR. FREIDIN: This is one that's actually
13 worth telling.

14 MR. HANNA: I would be interested in
15 hearing this, Mr. Chairman, on the record.

16 THE CHAIRMAN: Let it all out, Mr.
17 Hynard.

18 MR. HYNARD: It was one of the slides,
19 Mr. Chairman, that had been -- in fact, it was the
20 area - the last spot on the southern site tour, if you
21 recall the spot, and I mentioned that we put
22 Youngsteeth - capital Y - mounted Youngsteeth on the
23 front of a bulldozer and ripped the area all up for
24 site preparation.

25 In the transcript it said we mounted

1 young Steve on the front of a bulldozer and wherever we
2 could put those teeth in the ground we ripped the
3 poplar out by the roots.

4 The next morning I had a note from Kate
5 Murphy and she said: The Childrens' Aid Society called,
6 do you need a lawyer?

7 I am back on page 1302, lines 7 to 10.

8 MR. HANNA: Q. I want to understand your
9 rationale for the statement, and my interpretation of
10 that is, the reason you are not providing the rationale
11 is because it would be too much paperwork; is that
12 correct?

13 MR. HYNARD: A. The reason that I am not
14 providing the rationale is because it is not required
15 of me.

16 In my evidence I stated a number of
17 reasons why I thought it is not a good idea to require
18 documentation of the rationale for silvicultural
19 groundrules.

20 Q. Okay. I believe in Dr. Euler's
21 response he has indicated that not only of the great
22 number of possible combinations of silvicultural
23 systems, but within the very specific silvicultural
24 combinations for a specific site, there is potential -
25 I am not saying necessarily that it will happen - but

1 there is potential for there to be differential
2 environmental effects, in this case wildlife.

3 Now, Mr. Freidin in his opening comments
4 made the following statement, and that is on page 12924
5 lines 2 and 3 of the transcript and he said - perhaps
6 I'll shoulder Mr. Freidin's wrath if I don't read it
7 directly - he said:

8 "In that regard, the first point that I
9 would like to make is that it will be the
10 Ministry's position that harvesting does
11 not cause any significant adverse
12 environmental effects."

13 Now, the question I want to ask you: Do
14 you concur with the view that Mr. Freidin has given?

15 A. Yes, I do.

16 Q. And is that the reason that you feel
17 the rationale for the groundrules is unnecessary? Is
18 that one of the reasons?

19 A. No, it's not.

20 Q. Is that one of the reasons?

21 A. The reason that I feel that
22 documentation of the rationale in the management plan
23 is unnecessary is because I do not believe it would be
24 useful, it would be onerous but not useful. Don't for
25 a moment think that I believe the public should have no

1 access to the reasons behind the activities that are
2 being planned, I don't feel that way at all, and they
3 have that access now.

4 The best way to get that information is
5 to talk to their forester. At the present time there
6 are public information centres at which time -- and
7 mine will be on June the 3rd at the Minden Curling
8 Club, ten o'clock until five o'clock, it's a Saturday,
9 you are welcome to come there, we will show you the
10 maps of all the operations that are being planned, the
11 silvicultural groundrules of all the techniques that
12 will be used on those areas that are mapped.

13 There will be area of concern
14 prescriptions to show you what accommodation will be
15 made for other uses, there will be an entire planning
16 team there to talk to you, you can ask them any
17 question about rationale. Why are you doing this? Why
18 are you doing it in this fashion? Why are you doing so
19 much of it or so little of it?

20 You can ask those questions and receive
21 that rationale and if you come there you will. You
22 don't even have to come there. If you have those
23 questions, you can write me a letter and I will answer
24 the letter and I will answer your questions. I don't
25 find that onerous, I find it useful and I hope that the

1 public who asks those questions finds it useful too.

2 But to document the rationale for
3 silvicultural decisions, in my view, in the timber
4 management plan would be onerous for all the reasons
5 that I have described and I don't believe it would be
6 particularly useful for the same reasons that I have
7 described.

8 THE CHAIRMAN: Okay. Mr. Hynard, does
9 that constitute the bulk of your reasons as to why you
10 would not document the rationale in silvicultural
11 prescriptions, groundrules?

12 MR. HYNARD: Yes, sir, it's the bulk. I
13 think -- in the sense of that usefulness, I think it
14 would be very, very difficult for a member of the
15 public not familiar with forestry operations to
16 understand a rationale being provided without an
17 understanding of basic forestry principles.

18 And, of course, to document all of those
19 underlying concepts and foundations of forestry
20 practice to the extent necessary, they may as well go
21 back to school. It would be difficult.

22 But in fact, in reality, when things --
23 and I am down on a management unit where there is a lot
24 of people and they have a lot of concerns, I do get
25 questions and when I get them, people want to know the

1 answers, and I don't find that onerous to provide them
2 those answers. I think they have a right to ask and I
3 attempt to answer that, and I am accountable in that
4 fashion.

5 Of course I am accountable in other
6 fashions too. That is -- and, Mr. Chairman, I have
7 tried to express clearly my views on the matter of
8 documentation and rationale and I think I now have done
9 so completely.

10 THE CHAIRMAN: Okay. Mr. Hanna, if you
11 or your client want to take a different position on
12 that, you are free to do so through introducing
13 evidence of your own. You can call a witness to
14 indicate that in that witness' opinion it should be
15 documented or it should be handled in a different
16 fashion.

17 You have this witness' position on that
18 issue, I don't think it is beneficial to the Board to
19 proceed any further along this line on this issue.

20 Please move on to the next one, Mr.
21 Hanna.

22 MR. HANNA: Q. Mr. Hynard, I would like
23 to refer you to page 146 of the class environmental
24 assessment, and I would like you to look at lines 22 to
25 28 starting with the silvicultural groundrules.

1 MR. HYNARD: A. Yes, I see that
2 sentence.

3 Q. Yes. It's actually two sentences.
4 What I see there is that it's being suggested that the
5 silvicultural groundrules result in minimal and
6 acceptable environmental effects, et cetera; right?
7 That is what is being suggested?

8 A. Yes, I agree with that.

9 Q. Okay. Now, is it your understanding
10 that one of the responsibilities of this Board is to
11 decide on minimal acceptable environmental effects or
12 at least acceptable environmental effects?

13 A. See, the Board has a lot of tasks and
14 I am not familiar with them all.

15 Q. That's fine. But if this Board was
16 convinced that in fact silvicultural groundrules led to
17 acceptable environmental impacts, it would seem,
18 certainly in my view, and I ask your view, that it
19 would be appropriate for them to approve the
20 undertaking?

21 THE CHAIRMAN: Well, there is a great
22 many reasons why we might approve or disapprove of the
23 undertaking, Mr. Hanna.

24 MR. HANNA: With respect to that
25 particular...

1 THE CHAIRMAN: Well, with respect, we
2 have to look at the application, you know, on an
3 overall basis, and we have the statutory duty to decide
4 whether or not the environmental assessment as
5 conducted is acceptable, and if we decide that it is,
6 to decide whether or not the undertaking as described
7 should be approved, and if we decide it should be
8 approved, with or without conditions; if we decide
9 there should be conditions attached, what those
10 conditions are.

11 That essentially is our statutory duty
12 and obligation under Section 12(2) of the Act. And we
13 may make that decision on a variety of different
14 grounds based on the evidence in its entirety, which
15 includes in addition, in our view, to Exhibit 4 all of
16 the evidence adduced at this hearing.

17 MR. HANNA: The question was poorly put,
18 sir, I appreciate what you are saying. Really what I
19 was saying...

20 THE CHAIRMAN: Well, it is really up to
21 us to decide what is acceptable. What I am trying to
22 say is this witness, with all due respect, could come
23 up with whatever answer he wants and it would be
24 speculative to the extent that we may or may not decide
25 the case on those grounds.

1 MR. HANNA: Okay.

2 Q. In these hearings, Mr. Hynard, there
3 has been evidence brought forward, and I believe Mr.
4 Straight was one of those, and I believe Mr. Euler in
5 fact said this in-chief, he said that forestry can have
6 beneficial -- or timber management can have beneficial
7 effects to other values; is that correct?

8 MR. HYNARD: A. I believe he did, yes.

9 Q. As I understand that from Mr. Scott's
10 testimony - and maybe I should ask you also - do you
11 see IRM as an integral component of timber management
12 planning in this province?

13 A. Yes, I do.

14 Q. So if we look at this statement here
15 in terms of silvicultural groundrules, we can look at
16 it in a different perspective also, and that is not
17 only that silvicultural groundrules result in minimal
18 environmental effects, we can look at the positive
19 environmental effects and say they also result in
20 optimum environmental effects?

21 A. Well, I am not sure I am in a
22 position to reword the sentence, I think --

23 Q. I wasn't asking you to reword the
24 sentence.

25 A. I think the evidence has been stated

1 that the effects of harvest can -- on wildlife can
2 indeed be positive, not simply neutral or negative.

3 Q. I appreciate that. What I am trying
4 to look at is, if we take that IRM-type philosophy and
5 we apply it to the silvicultural groundrules, in my
6 view there is two conditions which you might want to
7 try to achieve. One is that you achieve minimum
8 adverse environmental impacts and optimum beneficial
9 environmental impacts.

10 A. Yes, I see what you are saying.
11 Perhaps I can take a moment to describe how integrated
12 resource management fits into the TMP. Is that --

13 Q. I think the Board has heard that more
14 than --

15 A. Yes.

16 THE CHAIRMAN: I am not sure we want to
17 get into that--

18 MR. HYNARD: Okay.

19 THE CHAIRMAN: --again at this stage.

20 MR. HYNARD: Thank you.

21 MR. HANNA: Q. All I am asking you
22 simply, given your understanding of the silvicultural
23 groundrules and particularly those that apply to your
24 management unit, in your view do they lead to an
25 optimum -- do they lead to optimum environmental

1 effects?

2 MR. HYNARD: A. Well, the environment is
3 composed of a lot of elements and they may be affected
4 differently and in different ways, to differing
5 degrees, for differing durations, and I think those
6 effects have been described by this panel.

7 To say that there is in each case an
8 optimum total environmental benefit would take me a lot
9 of thought to really come to a conclusion on that.

10 I think the way in which we carry out our
11 timber management activities is to prescribe our
12 forestry practices, to identify the other uses and
13 values, and to accommodate as best we can those other
14 uses and values and, at the same time, having a minimal
15 effect of those accommodations on the forestry
16 activities themselves. That is not quite the same as
17 an optimization.

18 Q. We have been around this before and I
19 really don't want to go back and go through the
20 definition of IRM and what in fact is implied there.

21 The simple question is: Do the
22 silvicultural guidelines -- or excuse me, silvicultural
23 groundrules, lead to an optimum end product?

24 MR. FREIDIN: I think he has got the
25 answer to the question. I mean, he asked the question,

1 the witness has answered it I think as best he can.

2 THE CHAIRMAN: Put it this way, let's try
3 and clarify it a little bit, do the silvicultural
4 groundrules lead in all cases with respect to every
5 effect to an optimization?

6 MR. HYNARD: I don't believe they
7 possibly could.

8 THE CHAIRMAN: Are they meant to?

9 MR. HYNARD: No, no, they are not meant
10 to.

11 THE CHAIRMAN: Should they lead to an
12 optimization overall, meaning, some may be less than
13 optimal, some may even be negative--

14 MR. HYNARD: Yes.

15 THE CHAIRMAN: --but if you take the
16 overall picture and the various effects, different
17 users, different impacts that can be visited by the
18 activity, overall the purpose is to optimize?

19 MR. HYNARD: Yes, I believe that is the
20 case, that overall, given the range of activities
21 across the unit over that period of time, that the
22 overall resource management benefits are optimized.

23 THE CHAIRMAN: Thank you

24 MR. HANNA: Q. And, therefore, you would
25 agree that an integral part of those silvicultural

1 groundrules is an attempt to in fact do that?

2 MR. HYNARD: A. I think that the
3 silvicultural groundrules are a little more focused --
4 narrowly focused than that. I think that is the
5 purpose of the overall resource management planning.

6 Q. Mr. Clark, I think you might be able
7 to answer this better than Mr. Hynard, and perhaps I
8 can ask this question to you.

9 The Chairman has alluded to this concept
10 of acceptability and it's clearly the Board's
11 responsibility to decide upon acceptability. The word
12 acceptability has built into it two elements, if you
13 will. I am perhaps not using the exact same
14 terminology that past witnesses have, but I will
15 call -- I will say significance and importance.

16 Yes, significance and importance, yes,
17 that is the separation. If you want magnitude,
18 duration, frequency and intensity - I think are the
19 words that have been used - but those are the -- that
20 describes the physical element of it and then there is
21 the importance element of that, is how important that
22 change is.

23 THE CHAIRMAN: What is the question?

24 MR. HANNA: Well, I just want to get Mr.
25 Clark's concurrence that in fact acceptability has

1 built into it two elements.

2 MR. FREIDIN: Are we talking about
3 acceptability under the Environmental Assessment Act?

4 MR. HANNA: I am referring specifically
5 to page 146, line 28 of the EA which says:

6 "Silvicultural groundrules is expected to
7 result in minimal and acceptable
8 environmental effects."

9 I am referring to that context.

10 THE CHAIRMAN: What do you mean by the
11 word acceptable in that context of that particular
12 line, Mr. Clark?

13 MR. CLARK: I am just looking for the
14 specific line.

15 THE CHAIRMAN: 28.

16 MR. HANNA: Q. 28.

17 MR. CLARK: A. I think what I would be
18 inclined to do is read the rest of the sentence.

19 "Minimal and acceptable environmental
20 effects..." and I follow from that

21 "...because no particular resource
22 features, land uses or values which could
23 be negatively affected have been
24 identified in the land area in which they
25 apply."

1 Q. So you are saying they are acceptable
2 because there is no impact?

3 A. Well, in terms of -- in the sense
4 that no particular resource features, land uses or
5 values that are of concern have been identified.

6 THE CHAIRMAN: Or will be affected
7 negatively?

8 MR. CLARK: Or will, yes.

9 MR. HANNA: Q. It's the negative perhaps
10 and that's why I was asking the question of Mr. Hynard
11 about this question of optimization. This Board
12 normally concerns itself with negative environmental
13 impacts but there are possibilities of --

14 THE CHAIRMAN: We --

15 MR. HANNA: I am sorry, Mr. Chairman, I
16 stepped over the line there, excuse me.

17 Q. In many environmental applications
18 there is concern...

19 THE CHAIRMAN: In many environmental
20 applications there are both positive and negative
21 effects put to the Board. The Board renders its
22 decision after considering them all.

23 It would be wrong to suggest that only
24 negative effects are drawn to our attention in the
25 application, it would also be wrong to suggest that

1 only positive effects are drawn to our attention in the
2 application. In fact, the Act requires proponents to
3 deal with both.

4 MR. HANNA: I guess the proposition I
5 might put forward is that this application may be a
6 unique situation in some cases where in fact there are
7 indeed in some cases no negative effects, but there are
8 variable -- possible variable positive effects. In
9 other words, it is all on one side of the ledger.

10 It is an interesting problem, that is why
11 I am asking Mr. Clark here and that's what I understand
12 the IRM philosophy is based on with this concept of
13 optimization.

14 Q. And I am simply asking Mr. Clark
15 that, if there is no negative effect, therefore, there
16 is no magnitude and you can multiply any -- you can
17 multiply zero by any number and you get zero,
18 therefore, it's accepted?

19 You would agree with that? I am just
20 saying that is my interpretation and would you agree
21 with that interpretation, that the reason you can say
22 acceptable is because there is no negative impacts?

23 MR. CLARK: A. I am hesitating because I
24 was reading another section of the class environmental
25 assessment that I think may serve to clarify this

1 issue, and I am not sure that I understand exactly what
2 your concern is, but it might be helpful if I refer you
3 to page 16.

4 Page 16, the second paragraph. Page 16,
5 class environmental assessment, second paragraph is a
6 paragraph that deals with normal operations, and it may
7 be appropriate for me simply to read through this
8 quickly. It says:

9 "For the remainder of operations where no
10 particular resource features, land uses
11 or values which could be negatively
12 affected by timber management operations
13 are identified, the range of acceptable
14 silvicultural practices which can be
15 employed are determined by practising
16 professional foresters. Those practices
17 represent normal timber management
18 practice for the management unit in the
19 area of operations to which they apply
20 is termed normal operating areas."

21 This section here:

22 "Those acceptable silvicultural practices
23 are designed to ensure that the main
24 elements of the environment which require
25 protection in such areas; namely, the

1 timber resource itself and related soils
2 and site characteristics, are protected
3 and that potential adverse environmental
4 effects are prevented or minimized."

5 So I think when you use the term
6 acceptable, I tend to look at it in the context of that
7 particular paragraph.

8 Q. But Dr. Euler has given us a response
9 and maybe I will just clarify Dr. Euler's response.

10 Dr. Euler, when I asked you about strip
11 cuts and said is there potential differences in terms
12 of wildlife between a strip cut and a straight
13 clearcut, and I believe you said there is potential.

14 DR. EULER: A. Yes, I did.

15 Q. Now, is that potential in normal
16 operating areas?

17 A. Yes.

18 Q. Now, Mr. Clark, given what Mr. Euler
19 has just said, you would agree that there is the
20 potential for differential effects on wildlife?

21 MR. CLARK: A. Yes.

22 Q. And then back to my question about
23 whether this Board should decide on the question of
24 whether it's simply adequate to have a positive side of
25 the ledger and optimum side of the ledger, and I asked

1 you: Does your view acceptable include both positive
2 and optimum?

3 A. Positive and optimum?

4 Q. In other words, the Board has to take
5 into account the advantages and disadvantages of the
6 application in addition to a whole variety of other
7 things that they might consider.

8 And if the, let's say, positives outweigh
9 the negatives and all the other considerations they
10 have to deal with are adequate, I would expect that the
11 Board would give approval to that application.

12 Now, in this particular application we
13 have the possibility in the normal operating areas, if
14 no evidence is brought forward that there are negative
15 impacts associated with the normal operating areas, of
16 having -- facing the question of: Is it sufficient
17 simply to show that it's positive or is it sufficient
18 to show that it's optimum?

19 MR. FREIDIN: Mr. Chairman, I think the
20 witness is being asked, perhaps again, a question which
21 really has legal ramifications, and that is whether in
22 fact an argument at the end would be successful if it
23 indicated that the Board should make a decision to
24 optimize already positive environmental effects.

25 I think if you want -- and I think it's a

1 legal question and it's not fair to put to any of the
2 witnesses on this panel.

3 THE CHAIRMAN: I think, Mr. Hanna, I
4 agree with Mr. Freidin. Again, it comes down to the
5 argument at the end of the day as to what the basis
6 should be in the parties' view that the Board should
7 rely upon in terms of dealing with the issue of
8 accepting the environmental assessment and approving
9 the undertaking or disproving the undertaking.

10 I might advise that we intend to rise at
11 five o'clock, which is approaching, so you can
12 restructure your questions.

13 MR. HANNA: It might be more efficient,
14 sir, to take a break at this point and for me to
15 perhaps just restructure some of this and may be more
16 efficient than trying to do it...

17 THE CHAIRMAN: All right. Can you advise
18 where you might be at this point in your examination?
19 We are intending to sit tomorrow commencing at 8:30 and
20 we will be rising around 1:00 or so, 1:30.

21 MR. HANNA: Well, I think given the
22 instructions the Board has given me or the directions
23 the Board has given me, I may try and restructure some
24 of this this evening, but I would think this is going
25 to take a minimum of three days.

1 I would expect -- I hope to finish Mr.
2 Hynard tomorrow and there still are -- we would like to
3 ask a number of questions to Dr. Euler and -- well, a
4 number of the other witnesses. And, again, I can say
5 that this is one of the panels that the Federation...

6 THE CHAIRMAN: And when you say three
7 days, you are including tomorrow as one of those days?

8 MR. HANNA: I was presuming that was a
9 half day, but it will be at least -- I can't see us
10 finishing before Tuesday evening at the very earliest
11 and I would not be surprised if it goes until Thursday.

12 THE CHAIRMAN: There is a break, as you
13 are aware, for a week--

14 MR. HANNA: Oh I am sorry.

15 THE CHAIRMAN: --after tomorrow.

16 MR. HANNA: That's right. Well, I can
17 tell you I am not going to finish tomorrow.

18 THE CHAIRMAN: We didn't expect that.

19 MR. HANNA: Can I -- I prefer to respond
20 to you this evening, sir. I have got some direction
21 back from the Board and I will try to take that.

22 THE CHAIRMAN: All right. We will be
23 asking you before we rise tomorrow where you are so
24 that we can schedule other matters for the week we come
25 back commencing on the 24th.

1 We have some other parties to cover, as
2 you are aware, and we also have some other matters to
3 deal with and we want to make sure that those parties
4 are advised prior to the break when they might be
5 expected to be called upon.

6 MR. HANNA: Thank you, Mr. Chairman.

7 THE CHAIRMAN: 8:30 tomorrow morning.

8 ---Whereupon the hearing adjourned at 4:55 p.m., to be
9 reconvened on Thursday, April 13th, 1989, commencing
 at 8:30 a.m.

